

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 IN RE: NATIONAL)
5 PRESCRIPTION) MDL No. 2804
6 OPIATE LITIGATION)
7 THIS DOCUMENT RELATES)
8 TO ALL CASES) Hon. Dan A. Polster
9 Tuesday, August 7, 2018
10 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
11 CONFIDENTIALITY REVIEW
12 Videotaped deposition of Jennifer R. Norris,
13 held at the offices of BakerHostetler, 200 Civic Center
14 Drive, Suite 1200, Columbus, Ohio, commencing at
15 8:09 a.m., on the above date, before Carol A. Kirk,
16 Registered Merit Reporter and Notary Public.
17
18
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2	P R O C E E D I N G S	
3	---	
4	THE VIDEOGRAPHER: Good morning. We are	
5	now on the record. My name is Darnell Brown, and	
6	I'm the videographer with Golkow Litigation	
7	Services. Today's date is August 7, 2018, and the	
8	time is 8:09 a.m.	
9	This video deposition is being held in	
10	Columbus, Ohio, in the matter of In Re: National	
11	Prescription Opioid Litigation for the United	
12	States District Court for the Northern District of	
13	Ohio. The deponent is Jennifer Norris.	
14	Counsel, please identify yourselves for	
15	the record.	
16	MR. FULLER: Mike Fuller on behalf of	
17	the Plaintiff.	
18	MR. ELKINS: A.J. Elkins for the	
19	Plaintiff.	
20	MS. VELDMAN: Gina Veldman for the	
21	Plaintiff.	
22	MR. FULLER: Paul Farrell will be here	
23	at some point on behalf of the Plaintiff.	
24	MR. NICHOLAS: Bob Nicholas, Reed Smith,	
		THE VIDEOGRAPHER: Those on the phone?
		MR. LYNCH: Mark Lynch from Covington & Burling for McKesson.
		MR. MAIER: Jonathan Maier from Morgan Bockius for Teva.
		MS. KOSKI: Katy Koski from Foley & Lardner for Anda, Inc.
		MR. DELINSKY: Eric Delinsky from Zuckerman Spaeder for CVS Indiana and CVS RX Services.
		MS. NAKAMURA: Angel Nakamura of Arnold & Porter for the Endo Defendants and the Par Pharmaceutical Defendants.
		MR. GHOSH: Pratik Ghosh with Kirland & Ellis for Allergan.
		MR. MAEROWITZ: Max Maerowitz with Ropes & Gray for Millinckrodt.
		MS. RIAZ: Unaiza Riaz with Bowles Rice for Kroger Company.
		MS. HUGHES: Jennifer Hughes from Jackson Kelly for Miami-Lukens.
		MR. FULLER: Anybody else?
		THE VIDEOGRAPHER: Okay. The court reporter is Carol Kirk, who will now swear in the

<p>1 witness.</p> <p>2 - - -</p> <p>3 JENNIFER R. NORRIS</p> <p>4 being by me first duly sworn, as hereinafter certified,</p> <p>5 deposes and says as follows:</p> <p>6 CROSS-EXAMINATION</p> <p>7 BY MR. FULLER:</p> <p>8 Q. Ma'am, please state your name for the</p> <p>9 record.</p> <p>10 A. Jennifer Robison Norris.</p> <p>11 Q. And, Ms. Norris, where are you currently</p> <p>12 employed?</p> <p>13 A. Cardinal Health.</p> <p>14 Q. And how long have you been at Cardinal</p> <p>15 Health?</p> <p>16 A. Eighteen years.</p> <p>17 Q. And what is your current position at</p> <p>18 Cardinal?</p> <p>19 A. I'm an attorney in the legal department.</p> <p>20 Q. Do you have any particular title?</p> <p>21 A. I do. I'm vice president, associate</p> <p>22 general counsel, mergers and acquisitions.</p> <p>23 Q. I'm sorry. You said mergers and</p> <p>24 acquisitions, right?</p>	<p>Page 14</p> <p>1 sourcing at one time. We had a corporate sales</p> <p>2 group, sold all of the products and services</p> <p>3 within Cardinal Health that I supported.</p> <p>4 I supported our specialty pharmaceutical</p> <p>5 distribution business, our specialty services</p> <p>6 business, the 3PL, the third-party logistics</p> <p>7 business we have, as well as working on 340B and</p> <p>8 other matters within pharmacy distribution.</p> <p>9 Q. I've seen 340B before. What's 340B?</p> <p>10 A. It's a federally mandated essentially</p> <p>11 drug discount program for certain types of</p> <p>12 customers.</p> <p>13 Q. Got it. Well, you have the pleasure or</p> <p>14 the curse of being designated today as a 30(b)</p> <p>15 witness. Are you aware of that?</p> <p>16 A. I am.</p> <p>17 Q. And do you understand what that means?</p> <p>18 A. I do.</p> <p>19 Q. That's because you're a lawyer, right?</p> <p>20 MS. MAINIGI: Objection.</p> <p>21 A. Because I'm a lawyer, and that's what I</p> <p>22 was asked to do.</p> <p>23 Q. Sure.</p> <p>24 A. I was not aware of what a 30(b)(6)</p>
<p>1 A. Mm-hmm, and integration.</p> <p>2 Q. And how long have you held that title?</p> <p>3 A. I've been in that group -- my titles</p> <p>4 varied, but I've been in that group for</p> <p>5 approximately two years.</p> <p>6 Q. And that's the mergers and acquisitions</p> <p>7 and integrations group?</p> <p>8 A. Yes.</p> <p>9 Q. How about prior to that?</p> <p>10 A. Prior to that, I was still a vice</p> <p>11 president, associate general counsel, but I was in</p> <p>12 our commercial group supporting our pharmacy</p> <p>13 distribution business primarily.</p> <p>14 Q. When you say supporting pharmacy</p> <p>15 distribution, give me an understanding of what you</p> <p>16 would be doing in that role.</p> <p>17 A. My primary role was with acute care and</p> <p>18 alternate care customers, working on the customer</p> <p>19 facing agreements and issues that came up from</p> <p>20 time to time with those customers.</p> <p>21 Q. Okay. And how about prior to that?</p> <p>22 A. I've always been in that group. Again,</p> <p>23 my title has varied, and I've supported other</p> <p>24 groups within Cardinal Health. I supported</p>	<p>Page 15</p> <p>1 witness was before I was asked to do this.</p> <p>2 Q. Well, and just so everybody is on the</p> <p>3 same page then, that means you've been designated</p> <p>4 as the representative for Cardinal Health.</p> <p>5 Because Cardinal Health can't speak on its own,</p> <p>6 you're here to speak on their behalf on certain</p> <p>7 subject matters. Is that your understanding?</p> <p>8 A. That is my understanding.</p> <p>9 - - -</p> <p>10 (Cardinal-Norris Exhibit 1 marked.)</p> <p>11 - - -</p> <p>12 Q. And I'm going to attach as Exhibit 1 --</p> <p>13 MR. FULLER: And, Counsel, I'll just</p> <p>14 hand everything to you, and you can take one and</p> <p>15 pass the extras down.</p> <p>16 And this is Norris 1 for the record, now</p> <p>17 marked as Plaintiff's 1.</p> <p>18 BY MR. FULLER:</p> <p>19 Q. This is a copy of one of the two</p> <p>20 notices.</p> <p>21 Have you seen this document before?</p> <p>22 A. I have.</p> <p>23 Q. Now, I'm going to sort of weave into</p> <p>24 this in an agreement that your counsel and I have</p>

<p style="text-align: right;">Page 18</p> <p>1 related to certain topics. So you're going to be 2 deposed on Notice 1 for Items A through N. 3 Is that your understanding? 4 A. That is my understanding. 5 MR. FULLER: And, Counsel, pursuant to 6 our agreement, that will be answered in writing at 7 a later date, right? 8 MS. MAINIGI: Correct. 9 MR. FULLER: Okay.</p> <p>10 BY MR. FULLER:</p> <p>11 Q. And do you feel comfortable being 12 designated over those areas set out in Notice 1? 13 And that's A through N. 14 A. I do. 15 MS. MAINIGI: Just for the purpose of 16 the record, Mr. Fuller, we will just note that she 17 will testify consistent with the objections that 18 we served as to both notices. 19 MR. FULLER: We'll get there, too. I 20 will give them -- give her those as well.</p> <p>21 - - -</p> <p>22 (Cardinal-Norris Exhibit 2 marked.)</p> <p>23 - - -</p> <p>24</p>	<p style="text-align: right;">Page 20</p> <p>1 testifying to all those topic areas that we just 2 mentioned? 3 A. I am. 4 - - - 5 (Cardinal-Norris Exhibit 3 marked.) 6 - - -</p> <p>7 Q. And then in full fairness and 8 disclosure, as counsel just mentioned, here is 9 Plaintiff's Exhibit Number 3, which is Norris 10 Number 3, which is Cardinal Health's objections to 11 the prospective 30(b)(6) notices. 12 Have you seen this prior to today? 13 A. I have. 14 Q. And you've had an opportunity to review 15 it as well? 16 A. I did review it. 17 Q. All right. Now, ma'am, you are -- and I 18 say "you." I'm sorry. 19 Speaking on behalf of Cardinal, you're 20 in the business of distributing prescription 21 medications, as well as other things, correct? 22 A. Yes. 23 Q. And that also includes controlled 24 substances; is that right?</p>
<p style="text-align: right;">Page 19</p> <p>1 BY MR. FULLER: 2 Q. Now, Norris Number 2, which is the 3 second 30(b) notice, will be marked as Plaintiff's 4 2 for the purposes of the deposition. 5 Do you have that document now in front 6 of you? 7 A. I do. 8 Q. Okay. And have you seen that document 9 previously? 10 A. I have. 11 Q. Now, it's my understanding that with the 12 agreement of counsel, you're going to testify to 13 the subject areas of 7, 8, 12, and 22 with a 14 possibility of some examination on subject area 15 number 6. 16 Is that your understanding as well, 17 Ms. Norris? 18 A. It is. 19 MS. MAINIGI: And just to be clear, 20 Mr. Fuller, she is prepared to testify as to 21 Topic 6 today. 22 MR. FULLER: All right. 23 BY MR. FULLER: 24 Q. And, Ms. Norris, are you comfortable</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Yes. Those are some of the prescription 2 medications that we distribute. 3 Q. And there are certain statutes and 4 regulations and rules that apply to you in 5 distributing those medications; is that fair? 6 A. Yes. 7 Q. And one of them is the Controlled 8 Substances Act; is that right? 9 A. Yes. 10 Q. And we'll spend a good part of our day 11 talking about the Controlled Substances Act and 12 its various portions and parts. 13 MR. FULLER: I'm going to mark as 14 Plaintiff's Number 3 -- or excuse me -- 15 Plaintiff's Number 4, which is Norris Number 4. 16 - - - 17 (Cardinal-Norris Exhibit 4 marked.) 18 - - -</p> <p>19 BY MR. FULLER: 20 Q. And you have that document in front of 21 you? 22 A. I do. 23 Q. Okay. And I'll represent to you that 24 this is a portion of the Controlled Substances</p>

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<p>1 Act, not the entire thing. And if you look there, 2 it says "United States Code Annotated. Title 21. 3 Chapter 13. Drug Abuse Prevention and Control." 4 Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. And do you know that to be the portion 7 of the U.S. Code that contains the Controlled 8 Substances Act?</p> <p>9 A. I believe so, yes.</p> <p>10 Q. And this is Subchapter 1, Part A, 11 Introductory Provisions.</p> <p>12 And have you seen this before?</p> <p>13 A. I have.</p> <p>14 Q. Okay. And you're aware that in Section 15 801, Congress of the United States of America made 16 certain declarations and findings; is that right?</p> <p>17 MS. MAINIGI: Objection.</p> <p>18 A. That's what the section says, 19 "Congressional Findings and Declarations."</p> <p>20 Q. Okay. Particularly related to 21 controlled substances --</p> <p>22 MS. MAINIGI: Objection.</p> <p>23 Q. -- is that true?</p> <p>24 MS. MAINIGI: Excuse me.</p>	<p>1 Q. That's all right.</p> <p>2 Does Cardinal agree with this statement?</p> <p>3 A. In my personal --</p> <p>4 MS. MAINIGI: Excuse me. Objection; 5 scope.</p> <p>6 Go ahead.</p> <p>7 A. In my personal capacity, I agree that's 8 what the words say.</p> <p>9 Q. You also agree that controlled 10 substances have legitimate medical purposes and 11 are necessary to maintain the health and welfare 12 of the American people?</p> <p>13 A. I agree that --</p> <p>14 MS. MAINIGI: Objection; scope.</p> <p>15 A. -- that was Congress' finding.</p> <p>16 Q. Okay. And read aloud Number 2 for us, 17 Congress' second finding of this Controlled 18 Substances Act.</p> <p>19 A. "The illegal importation, manufacture, 20 distribution, and possession and improper use of 21 controlled substances have a substantial and 22 detrimental effect on the health and general 23 welfare of the American people."</p> <p>24 Q. Does Cardinal agree and accept that that</p>
<p style="text-align: center;">Page 23</p> <p>1 A. It goes on to say, colon, "Controlled 2 Substances."</p> <p>3 Q. Yes, ma'am. And then it says, "Congress 4 makes the following findings and declarations."</p> <p>5 And if you would, let's start with the 6 first one and read that one aloud for us, please.</p> <p>7 A. "Many of the drugs included within this 8 subchapter have a useful and legitimate medical 9 purpose and are necessary to maintain the health 10 and general welfare of the American people."</p> <p>11 Q. Does Cardinal agree with that statement 12 by Congress?</p> <p>13 MS. MAINIGI: Objection; form.</p> <p>14 Objection; outside the scope of the agreed-upon 15 notice 30(b)(6) topics.</p> <p>16 You may answer in your personal 17 capacity.</p> <p>18 As a short form, I will just from here 19 after say "Objection; scope," and the witness will 20 understand that she can answer the question 21 anyway.</p> <p>22 MR. FULLER: Thank you.</p> <p>23 A. Can you please repeat the question?</p> <p>24 Sorry.</p>	<p style="text-align: center;">Page 25</p> <p>1 was the United States of America Congress' finding 2 related to controlled substances?</p> <p>3 MS. MAINIGI: Objection; scope.</p> <p>4 A. I agree that that's what the finding 5 says.</p> <p>6 Q. Now, let's pull that apart a little bit. 7 It says that "The illegal importation, 8 manufacture, distribution, and possession and 9 improper use of controlled substances can have -- 10 or has -- excuse me -- have a substantial and 11 detrimental effect on the health and general 12 welfare."</p> <p>13 For Cardinal's purpose, we're worried 14 about -- or focused on the distribution, correct? 15 You don't manufacture, right?</p> <p>16 A. Cardinal Health does not manufacture.</p> <p>17 Q. Okay. And you don't actually use the 18 drugs that you distribute either, do you?</p> <p>19 A. The company does not use the drugs.</p> <p>20 Q. So we're focused just on distribution. 21 So do you agree or disagree that the illegal 22 distribution of controlled substances have a 23 substantial detrimental effect on the health and 24 general welfare of the American people?</p>

<p style="text-align: right;">Page 26</p> <p>1 MS. MAINIGI: Objection; scope.</p> <p>2 A. I agree that that's what the finding</p> <p>3 says.</p> <p>4 Q. Do you agree that it can?</p> <p>5 MS. MAINIGI: Objection; scope.</p> <p>6 A. The illegal distribution may.</p> <p>7 Q. That's fair enough.</p> <p>8 And, again, as you know as a lawyer, I'm</p> <p>9 going to be asking you a bunch of questions, and</p> <p>10 I'm only asking that you answer to the best of</p> <p>11 your ability, okay?</p> <p>12 And if there's something that's unclear</p> <p>13 about my question, please ask me, and I'll</p> <p>14 certainly try to clarify it the best I can.</p> <p>15 A. I understand.</p> <p>16 Q. And I assume counsel has told you this,</p> <p>17 but if at any time you need a break, let me know.</p> <p>18 We'll take a break. We'll probably stop about</p> <p>19 every hour, give or take a little bit, and for</p> <p>20 lunch. If you need anything more than that, no</p> <p>21 problem. Just let me know. Fair?</p> <p>22 A. I understand.</p> <p>23 Q. Okay. And I was already moving to the</p> <p>24 next topic, and I've got multiple pages here.</p>	<p style="text-align: right;">Page 28</p> <p>1 This was created by a Paul Farrell, Jr.</p> <p>2 MS. MAINIGI: Well, I'm glad it's marked</p> <p>3 as an exhibit.</p> <p>4 MR. FULLER: The gentleman raising his</p> <p>5 hand down the table.</p> <p>6 BY MR. FULLER:</p> <p>7 Q. So, ma'am, Ms. Norris, Cardinal is in</p> <p>8 the business of distributing Schedule II</p> <p>9 controlled substances, amongst other things; is</p> <p>10 that right?</p> <p>11 A. It is.</p> <p>12 Q. And you are also aware, as Cardinal,</p> <p>13 that Schedule IIs have a heightened standard when</p> <p>14 dealing with them, heightened security standard;</p> <p>15 is that correct?</p> <p>16 MS. MAINIGI: Objection.</p> <p>17 A. I know that Schedule IIs, in addition to</p> <p>18 other controlled substances, have different</p> <p>19 controls, for lack of a better word, that need to</p> <p>20 be applied in the manufacture, distribution,</p> <p>21 dispensing, prescribing, and using.</p> <p>22 Q. Fair enough. Now, it says Schedule II.</p> <p>23 And read A to us, if you don't mind, please.</p> <p>24 A. Schedule II. A2?</p>
<p style="text-align: right;">Page 27</p> <p>1 Sorry.</p> <p>2 If you turn to the next page, page 2.</p> <p>3 You see this is another section of the Controlled</p> <p>4 Substances Act. Do you see that at the top, Title</p> <p>5 21, Chapter 13. Drug Abuse and Prevention --</p> <p>6 excuse me -- Drug Abuse Prevention and Control?</p> <p>7 A. I see that.</p> <p>8 Q. Okay. And it deals with the authority</p> <p>9 to control standards and schedules.</p> <p>10 Do you see that?</p> <p>11 A. I do.</p> <p>12 Q. Okay. And it's Section 812, Schedules</p> <p>13 of Controlled -- and I didn't put Schedules I,</p> <p>14 III, IV, and V in here, because I didn't think it</p> <p>15 was necessary. I included Schedule II.</p> <p>16 Cardinal --</p> <p>17 MR. FULLER: I'm sorry. Go ahead.</p> <p>18 MS. MAINIGI: So, Mike, just for the</p> <p>19 purpose of the record, you have excerpted parts of</p> <p>20 this regulation but left out other parts of the</p> <p>21 regulation?</p> <p>22 MR. FULLER: The code, yes, ma'am.</p> <p>23 And to be fair, you're not going to be</p> <p>24 able to Google and find this on the Internet.</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Yes, ma'am -- no, no. 2A.</p> <p>2 A. 2A?</p> <p>3 Q. Yes, ma'am. I'm sorry.</p> <p>4 A. I'm sorry. "Schedule II. The drug or</p> <p>5 other substance has a high potential for abuse."</p> <p>6 Q. Now, as Cardinal Health, you know that</p> <p>7 Schedule IIs do have a high potential for abuse;</p> <p>8 is that correct?</p> <p>9 MS. MAINIGI: Objection; scope.</p> <p>10 A. That's what the statute says here.</p> <p>11 Q. But as a distributor of controlled</p> <p>12 substances, and particularly Schedule IIs, do you</p> <p>13 also know that to be the case?</p> <p>14 MS. MAINIGI: Objection; scope.</p> <p>15 Q. Let me ask it differently. Maybe make</p> <p>16 it a little easier.</p> <p>17 Sitting here today as Cardinal Health,</p> <p>18 do you agree that the U.S. Congress has determined</p> <p>19 that Schedule IIs are drugs and other substances</p> <p>20 that have a high potential for abuse?</p> <p>21 MS. MAINIGI: Objection; scope.</p> <p>22 A. That is the definition that is included</p> <p>23 in this statute.</p> <p>24 Q. That's the definition provided by the</p>

<p style="text-align: right;">Page 30</p> <p>1 U.S. Congress, correct?</p> <p>2 A. Yes, it is.</p> <p>3 MS. MAINIGI: Objection; scope.</p> <p>4 A. Yes, in this statute.</p> <p>5 Q. And read B to us, if you don't mind.</p> <p>6 A. "The drug or other substance has a</p> <p>7 currently accepted medical use in treatment in the</p> <p>8 United States or a currently accepted medical use</p> <p>9 with severe restrictions."</p> <p>10 Q. And Cardinal also accepts that finding</p> <p>11 by the U.S. Congress; is that right?</p> <p>12 MS. MAINIGI: Objection; scope.</p> <p>13 A. That is what the statute says.</p> <p>14 Q. And does Cardinal accept that finding by</p> <p>15 Congress --</p> <p>16 MS. MAINIGI: Objection; scope.</p> <p>17 Q. -- or do you disagree?</p> <p>18 A. That is what the statute says.</p> <p>19 Q. So do you accept it or not?</p> <p>20 MS. MAINIGI: Objection; scope.</p> <p>21 A. In my personal capacity, that's what the</p> <p>22 statute says.</p> <p>23 MR. FULLER: Give me one second.</p> <p>24 (Pause in proceedings.)</p>	<p style="text-align: right;">Page 32</p> <p>1 A. I see that title, yes.</p> <p>2 Q. And it's Section 821, Rules and</p> <p>3 Regulations. If you would read that aloud to us,</p> <p>4 please.</p> <p>5 A. "The Attorney General is authorized to</p> <p>6 promulgate rules and regulations and to charge</p> <p>7 reasonable fees relating to the registration and</p> <p>8 control of the manufacture, distribution, and</p> <p>9 dispensing of controlled substances and to listed</p> <p>10 chemicals."</p> <p>11 Q. And does Cardinal agree or disagree that</p> <p>12 the Attorney -- the U.S. Attorney General has the</p> <p>13 authority to enact these rules and regulations</p> <p>14 related to both regulating as well as controlling</p> <p>15 controlled substances?</p> <p>16 MS. MAINIGI: Objection; form.</p> <p>17 Objection; scope.</p> <p>18 A. I agree the statute says the Attorney</p> <p>19 General is authorized to promulgate rules and</p> <p>20 regulations relating to the registration and</p> <p>21 control of the manufacture, distribution, and</p> <p>22 dispensing of controlled substances and listed</p> <p>23 chemicals.</p> <p>24 Q. And, again, the distribution part is</p>
<p style="text-align: right;">Page 31</p> <p>1 BY MR. FULLER:</p> <p>2 Q. Ma'am, read C to us aloud, please.</p> <p>3 A. "Abuse of the drug or other substances</p> <p>4 may lead to severe psychological or physical</p> <p>5 dependence."</p> <p>6 Q. And do you agree with that finding by</p> <p>7 the U.S. Congress related to Schedule II</p> <p>8 controlled substances?</p> <p>9 MS. MAINIGI: Objection; scope.</p> <p>10 A. I agree that's what the statute says.</p> <p>11 I'm not a medical professional to opine on that</p> <p>12 particular statement.</p> <p>13 Q. Fair enough.</p> <p>14 Now, let's go to page 3. This is still,</p> <p>15 what, Exhibit 4.</p> <p>16 Ma'am, do you see at the top this is</p> <p>17 another section of the Controlled Substances Act,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 MS. MAINIGI: Objection.</p> <p>21 Q. This deals with "Registration of</p> <p>22 Manufacturers, Distributors, and Dispensers</p> <p>23 Controlled Substances."</p> <p>24 Do you see that?</p>	<p style="text-align: right;">Page 33</p> <p>1 what applies to Cardinal. Can we agree on that?</p> <p>2 A. I agree that Cardinal Health is a</p> <p>3 distributor.</p> <p>4 Q. Okay. And if you look down at the</p> <p>5 bottom section, when does it indicate this statute</p> <p>6 was created? If you look down at the bottom, when</p> <p>7 does it indicate this statute was created?</p> <p>8 MS. MAINIGI: Objection; scope.</p> <p>9 A. The paper says October 27, 1970.</p> <p>10 Q. And do you know whether the -- strike</p> <p>11 that.</p> <p>12 Does Cardinal know whether the</p> <p>13 Controlled Substances Act went into effect in</p> <p>14 1970?</p> <p>15 MS. MAINIGI: Objection; scope.</p> <p>16 A. I thought it was 1971, but --</p> <p>17 Q. Somewhere around that time frame; is</p> <p>18 that fair?</p> <p>19 A. The early '70s, yes.</p> <p>20 Q. We'll go to page number 4. And this</p> <p>21 deals with registration requirements, Section 823.</p> <p>22 Do you see that?</p> <p>23 A. I see Section 823, Registration</p> <p>24 Requirements.</p>

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<p>1 Q. One of the things that the potential 2 distributor has to do is maintain the "maintenance 3 of the effective control against diversion of 4 particular controlled substances into other than 5 legitimate medical, scientific, and industrial 6 channels."</p> <p>7 Did I read that correctly?</p> <p>8 A. "Distributors of controlled substances 9 in Schedule I or Schedule II. The following 10 factors shall be considered."</p> <p>11 Now, I assume there are more factors. 12 You only listed one of them.</p> <p>13 Q. That's correct, yes, ma'am.</p> <p>14 A. But one of the factors in determining 15 whether or not the issuance of a registration is 16 inconsistent with the public interest is 17 maintaining -- maintenance of an effective control 18 against diversion of particular controlled 19 substances into other than legitimate medical, 20 scientific, and industrial channels.</p> <p>21 Q. And sitting here today, do you take the 22 position that Cardinal maintains such effective 23 controls?</p> <p>24 A. Yes.</p>	<p>1 Do you see that?</p> <p>2 A. September 10, 1970. I see August 12, 3 1970.</p> <p>4 MS. MAINIGI: I think he's on the prior 5 page.</p> <p>6 A. Oh, you mean actually the first page?</p> <p>7 Q. Yeah. I'm sorry.</p> <p>8 A. I'm sorry. September 10, 1970, yes.</p> <p>9 Q. Okay. And on that same page, you see up 10 near the top, it's the Comprehensive Drug Abuse 11 Prevention and Control Act of 1970.</p> <p>12 A. Yes, I see that title.</p> <p>13 Q. Okay. And if you will for me turn to 14 page 5. So we're on the same page, in the upper 15 right-hand corner, there is a -- most of the 16 documents are going to have a Norris and the 17 number of the exhibit, or the way I've numbered 18 the exhibit, and then a dash and then a page 19 number. When I call out a page number, that will 20 be what I will be referring to. Is that okay?</p> <p>21 A. Okay.</p> <p>22 Q. All right. So if you go to page 5, this 23 is titled -- or at least on this page this is 24 titled Control and Enforcement.</p>
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<p>1 - - -</p> <p>2 (Cardinal-Norris Exhibit 5 marked.)</p> <p>3 - - -</p> <p>4 Q. Now, this is going to help us, at least 5 to some degree, talk about when that act was 6 passed.</p> <p>7 Counsel is handing you what is marked as 8 Norris 5 and Plaintiff's Exhibit Number 5.</p> <p>9 Have you seen this document before?</p> <p>10 MS. MAINIGI: Counsel, can you just 11 represent to us what it is so that we don't have 12 to spend too much time taking a look through it?</p> <p>13 MR. FULLER: Sure. It is the 14 Congressional Record from the Controlled 15 Substances Act.</p> <p>16 A. I have not seen this document before, 17 no.</p> <p>18 Q. Okay. And then, therefore, I will 19 represent to you that it is the Congressional 20 Record from the Controlled Substances Act. It's 21 the discussion they had on the floor when they 22 were passing the Act.</p> <p>23 And if you look on the second page, it 24 has a date of September 10, 1970.</p>	<p>1 Do you see that?</p> <p>2 A. I see that title.</p> <p>3 Q. And then read the first statement there.</p> <p>4 A. "The bill provides for control by the 5 Justice Department of problems related to drug 6 abuse through registration of manufacturers, 7 wholesalers, retailers, and all others in the 8 legitimate distribution chain and makes 9 transactions outside the legitimate distribution 10 chain illegal."</p> <p>11 Q. Does Cardinal agree with that statement?</p> <p>12 Strike that. Let me ask it differently.</p> <p>13 Does Cardinal accept that that is one of 14 the Congressional bases for passing this act?</p> <p>15 MS. MAINIGI: Objection; scope.</p> <p>16 A. I acknowledge that that's what's written 17 in the record here.</p> <p>18 Q. And that they make or are attempting to 19 make transactions outside the legitimate 20 distribution chain illegal?</p> <p>21 MS. MAINIGI: Objection; scope.</p> <p>22 A. That's the statement this language 23 makes.</p> <p>24 Q. And let me ask you -- we'll get to</p>

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<p>1 regulations and such further down the road. 2 But as Cardinal, sitting here today, is 3 it your understanding that if we don't comply -- 4 well, let me ask it differently.</p> <p>5 If we follow the regulations of the 6 Controlled Substances Act, then we are acting 7 legally. Would you agree with that?</p> <p>8 MS. MAINIGI: Objection; form. 9 Objection; scope.</p> <p>10 A. The company's obligation is to follow 11 the regulations and the guidance provided by the 12 DEA.</p> <p>13 Q. And that includes the -- not just the 14 regulations, but also the statutes pertaining to 15 it, correct?</p> <p>16 A. The statutes, the regulations, the 17 applicable law.</p> <p>18 Q. All the appropriate rules?</p> <p>19 A. The applicable law as modified or 20 provided and the additional guidance by the DEA.</p> <p>21 Q. Okay. And would you -- does Cardinal 22 agree that if we don't follow those rules as 23 you've labeled them, that we are breaking the law?</p> <p>24 MS. MAINIGI: Objection; form.</p>	<p>1 BY MR. FULLER: 2 Q. So now if you'll turn to page 8 of this 3 document.</p> <p>4 All right. Since this one is a little 5 longer, it's going to be my turn to read it, okay?</p> <p>6 A. Sure.</p> <p>7 Q. I didn't think you'd object to that.</p> <p>8 On page 8 it says, "This bill is 9 designed to improve the administration and 10 regulation of manufacturing, distribution, and 11 dispensing of controlled substances by providing 12 for a closed system of distribution for legitimate 13 handlers of such drugs.</p> <p>14 "Such a closed system should 15 significantly reduce the widespread diversion of 16 these drugs out of the legitimate channels into 17 the illegitimate market while at the same time 18 providing the legitimate drug industry with a 19 unified approach to narcotic and dangerous drug 20 control."</p> <p>21 Did I read that right?</p> <p>22 A. Generally.</p> <p>23 Q. And does Congress -- excuse me.</p> <p>24 Does Cardinal accept that that was the</p>
Page 39	Page 41
<p>1 Objection; scope.</p> <p>2 A. A failure -- Cardinal Health's 3 obligations are to follow the law.</p> <p>4 Q. And if we don't follow the law, for 5 example, the Controlled Substances Act, then we're 6 breaking the law --</p> <p>7 MS. MAINIGI: Objection; form.</p> <p>8 Objection; scope.</p> <p>9 Q. -- correct?</p> <p>10 MS. MAINIGI: Excuse me.</p> <p>11 MR. FULLER: Sorry.</p> <p>12 A. If you don't follow the law, you're 13 breaking the law.</p> <p>14 Q. Is that a yes?</p> <p>15 A. Yes.</p> <p>16 MS. MAINIGI: Objection; form.</p> <p>17 Objection; scope to that.</p> <p>18 MR. FULLER: I just asked if that was a 19 yes.</p> <p>20 MS. MAINIGI: It's a poorly phrased 21 question, and it's outside the scope.</p> <p>22 MR. FULLER: I'm from Mississippi. 23 There's going to be a lot of poorly phrased 24 questions. I'm kidding.</p>	<p>1 intent by the U.S. Congress, to create a closed 2 system of distribution?</p> <p>3 MS. MAINIGI: Objection; scope.</p> <p>4 A. I agree that the language here discusses 5 the closed system of distribution.</p> <p>6 Q. And then that was something that 7 Congress intentionally created, right --</p> <p>8 MS. MAINIGI: Objection.</p> <p>9 Q. -- a close system of --</p> <p>10 MR. FULLER: I'm sorry.</p> <p>11 MS. MAINIGI: No. Go ahead.</p> <p>12 Q. Let me try again. And what we're doing, 13 so that you know, is we're trying to make sure the 14 record is clear because it's all sloppy if she's 15 objecting and I'm still talking or I start talking 16 again before she finishes her objection. So I 17 apologize for that.</p> <p>18 MS. MAINIGI: Was there a question?</p> <p>19 MR. FULLER: Huh? Yeah. I'm trying to 20 remember what it was.</p> <p>21 BY MR. FULLER:</p> <p>22 Q. Ms. Norris, can we agree that through 23 this section of this Congressional history, that 24 Congress was attempting to create a closed system</p>

<p style="text-align: right;">Page 42</p> <p>1 to try to contain the controlled substances into 2 the legitimate channels of distribution? 3 MS. MAINIGI: Objection; scope. 4 A. I agree that's what the language says. 5 I don't -- obviously I haven't read every -- all 6 the context around it, but the language 7 highlighted defines the closed distribution 8 system. 9 Q. Okay. And it even indicates that even 10 as far back as 1970, Congress is trying to 11 significantly reduce the widespread diversion of 12 controlled drugs out of legitimate channels into 13 the illicit market, correct? 14 MS. MAINIGI: Objection; scope. 15 A. That is what the language says. 16 Q. And that one of the ways they do that is 17 by creating this closed system. 18 Do you have an understanding of what 19 this "closed system" is? 20 A. I do, yes. 21 Q. Can you -- explain it briefly. 22 A. It's the system that Cardinal Health 23 operates in. It purchases pharmaceuticals it 24 distributes from licensed manufacturers. It</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. Fair enough. Let me ask that 2 differently. 3 A. Sorry. 4 Q. No, no. You're absolutely right. 5 Congress has created a licensing 6 requirement for manufacturers; is that correct? 7 MS. MAINIGI: Objection; scope. 8 A. I believe so. 9 Q. We know that Congress has created a 10 licensing requirement for wholesale distributors 11 such as Cardinal Health, correct? 12 A. Yes. 13 Q. And if you're not licensed, you can't 14 play in this ball game; is that fair? 15 MS. MAINIGI: Objection; form. 16 Objection; scope. 17 A. I believe that -- yes, that's the -- 18 Q. So -- 19 A. That's the closed distribution system. 20 Sorry. 21 Q. No. And if I start to do that, I 22 apologize. It's just that I'm thinking you're 23 done. In normal conversation, it happens. 24 A. I may have pregnant pauses --</p>
<p style="text-align: right;">Page 43</p> <p>1 distributes those pharmaceuticals to licensed 2 pharmacies for dispensing by those pharmacies 3 to -- pursuant to prescriptions by licensed 4 practitioners. 5 Q. So what Congress was doing was limiting 6 those who could participate in this industry, 7 correct? 8 MS. MAINIGI: Objection; scope. 9 A. I think it was laying out the system to 10 go from the -- from licensed player to licensed 11 player. 12 Q. And that's my point. You have to be a 13 licensed player. I can't go out and set up Mike's 14 Drive-Thru Pharmacy and start getting controlled 15 substances shipped to me, right? 16 MS. MAINIGI: Objection; scope. 17 A. Not if you're not licensed 18 appropriately. 19 Q. Not licensed. And what Congress has 20 done is it created licensed manufacturers, 21 correct? 22 MS. MAINIGI: Objection; scope. 23 A. I don't know if Congress created them, 24 but there are licensed manufacturers, yes.</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Yes. 2 A. -- so give me a chance. 3 Q. No, no. Same here. Same here. 4 By the time we've finished, we'll both 5 know it, and it will be too late, though. 6 All right. If you'll turn to page 11 of 7 this document. Let me know when you get there. 8 And if you want to look at any other 9 part of this document, 90 whatever pages, you are 10 more than free to do that, Ms. Norris. 11 Are you there on page 11? 12 A. I am. Just give me one second, please. 13 Q. Sure. 14 A. Okay. 15 Q. All right. And on page 11 -- and on 16 page 11, Congress says that "The price for 17 participation in this traffic should be 18 prohibitive. It should be made too dangerous to 19 be attractive." 20 And here they're talking about the 21 illegal traffic; is that correct? 22 MS. MAINIGI: Objection; form. 23 Objection; scope. 24 A. I believe, based on the language here --</p>

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<p>1 again, I don't have the full context, but the 2 first sentence refers to illegal traffic, and it 3 seems to be referring -- the language in the 4 second sentence seems to -- and third seem to be 5 referring to that.</p> <p>6 Q. And "to be prohibitive," what does 7 "prohibitive" mean, if you know?</p> <p>8 MS. MAINIGI: Objection.</p> <p>9 A. To cause someone to not do something.</p> <p>10 Q. To detour some sort of -- I'm sorry. Go 11 ahead. I'm doing it again.</p> <p>12 A. No. That's fine.</p> <p>13 Q. To detour -- "detour" is not the right 14 word.</p> <p>15 MS. MAINIGI: Deter.</p> <p>16 Q. Deter. See, I told you. Thank you. 17 Start again.</p> <p>18 "Prohibitive" in this sense means to 19 deter some type or fashion of conduct.</p> <p>20 Can we agree on that?</p> <p>21 A. Yes.</p> <p>22 Q. And that Congress is trying to make it 23 too dangerous to be attractive; is that right?</p> <p>24 MS. MAINIGI: Objection; scope.</p>	<p>1 But fair enough.</p> <p>2 If you'll next turn to page 26 of this 3 document. And you see the section there under law 4 enforce -- I'm sorry. You're not there yet. I 5 apologize.</p> <p>6 A. Sorry.</p> <p>7 Q. It's a big document, and I cheated a 8 little bit because mine has tabs.</p> <p>9 A. Page 26?</p> <p>10 Q. Yes, ma'am.</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And you see the section there 13 under Law Enforcement?</p> <p>14 A. I do.</p> <p>15 Q. And can you read that highlighted 16 section for us, please.</p> <p>17 A. "Titles II and Titles III of the bill 18 deal with law enforcement aspects of drug abuse 19 and provide authority for the Department of 20 Justice to keep track of all drugs subject to 21 abuse manufactured or distributed in the United 22 States in order to prevent diversion of these 23 drugs from legitimate channels of commerce."</p> <p>24 Q. And Cardinal agrees that the Department</p>
<p style="text-align: center;">Page 47</p> <p>1 A. Congress is making the statement that 2 the price for participation should be made too 3 dangerous to be attractive, participation in the 4 illegal and -- in the illegal trafficking.</p> <p>5 Q. Right. And we know from an earlier 6 section of the code, that the U.S. Congress gave 7 the Department of Justice the ability to control 8 that issue, correct?</p> <p>9 A. Yes.</p> <p>10 MS. MAINIGI: Objection; scope.</p> <p>11 Q. Yes, I believe that's what we talked 12 about. When it says "made too dangerous to be 13 attractive," is it -- we can agree, can we not, 14 that that means the penalty needs to be high 15 enough to deter the conduct; is that fair?</p> <p>16 MS. MAINIGI: Objection; scope.</p> <p>17 A. Generally, yes. I couldn't say what 18 that is.</p> <p>19 Q. When you say "what that is," you mean 20 what the penalty would have to be?</p> <p>21 MS. MAINIGI: Objection; scope.</p> <p>22 A. Yes.</p> <p>23 Q. Correct. And I'm not even asking you 24 about that. That's for DOJ and DEA to figure out.</p>	<p style="text-align: center;">Page 49</p> <p>1 of Justice has that authority which we just 2 mentioned earlier, correct?</p> <p>3 MS. MAINIGI: Objection; scope.</p> <p>4 A. The Department of Justice -- I guess we 5 were talking about the Attorney General earlier.</p> <p>6 Q. And who heads up the Department of 7 Justice?</p> <p>8 A. The Attorney General. So the -- yes, 9 yes.</p> <p>10 Q. Different terms, but generally we're 11 speaking about the same entity or guy or girl, 12 whoever it may be?</p> <p>13 A. I'm just a lowly commercial attorney 14 so --</p> <p>15 Q. No. Nothing lowly about it.</p> <p>16 A. -- to get all of this straight.</p> <p>17 Q. And the goal is, at least according to 18 this section, for the Department of Justice "to 19 keep track of all drugs subject to abuse 20 manufactured or distributed in the United States 21 in order to prevent the diversion of these drugs 22 from legitimate channels of commerce."</p> <p>23 Do you agree with that?</p> <p>24 MS. MAINIGI: Objection; scope.</p>

<p style="text-align: right;">Page 50</p> <p>1 A. I agree that that's what the language 2 says, yes.</p> <p>3 Q. And do you agree that that's a good goal 4 to have?</p> <p>5 MS. MAINIGI: Objection; scope.</p> <p>6 A. Generally speaking, yes.</p> <p>7 Q. Does Cardinal try to operate in a 8 fashion that prevents the diversion of controlled 9 substances into the illicit market?</p> <p>10 A. Yes.</p> <p>11 Q. Why?</p> <p>12 MS. MAINIGI: Objection; scope.</p> <p>13 A. Cardinal Health, in performing its 14 distribution services, follows the applicable 15 laws, rules, and regulations, and the guidance 16 provided by the DEA.</p> <p>17 Q. And Cardinal is in the business of 18 dealing and distributing controlled substances, 19 particularly Schedule IIs, correct?</p> <p>20 A. Not dealing.</p> <p>21 Q. Sorry. Distributing. Let me ask it 22 again.</p> <p>23 Cardinal is in the business of 24 distributing controlled substances, including</p>	<p style="text-align: right;">Page 52</p> <p>1 according to the Congressional -- according to the 2 statute, but they also have a legitimate medical 3 purpose.</p> <p>4 Q. Sure. And as a distributor, Cardinal 5 wants to try to prevent as much abuse and 6 addiction as we can, correct?</p> <p>7 MS. MAINIGI: Objection; scope.</p> <p>8 A. Cardinal Health's obligation is to 9 operate in the closed distribution system in 10 accordance with the applicable laws, rules, 11 regulations, and guidance from the DEA.</p> <p>12 Q. Does Cardinal also want to, in its 13 operations, do what it can to prevent abuse and 14 addiction?</p> <p>15 MS. MAINIGI: Objection; scope.</p> <p>16 A. Cardinal Health wants to perform its 17 services in compliance with the applicable laws, 18 rules, and regulations, and the guidance by the 19 DEA.</p> <p>20 Q. No. I understand that. You said that. 21 But do they want to help try to prevent abuse and 22 addiction?</p> <p>23 MS. MAINIGI: Objection; asked and 24 answered. Objection; scope.</p>
<p style="text-align: right;">Page 51</p> <p>1 Schedule IIs; is that correct?</p> <p>2 A. Cardinal Health distributes 3 pharmaceuticals, including controlled substances, 4 which includes Schedule II items.</p> <p>5 Q. And as we discussed earlier, Schedule 6 IIs have a heightened designation to them because 7 they are considered to be potentially dangerous --</p> <p>8 MS. MAINIGI: Objection.</p> <p>9 Q. -- is that correct?</p> <p>10 MS. MAINIGI: Excuse me. Objection; 11 scope.</p> <p>12 A. Schedule IIs, as I understand it, have 13 additional controls that need to be applied to the 14 manufacture, distributing, dispensing, 15 prescribing, and using, yes.</p> <p>16 Q. And is that because they are potentially 17 dangerous?</p> <p>18 MS. MAINIGI: Objection; scope.</p> <p>19 A. One of the comments, I believe, were 20 made they have the -- they could --</p> <p>21 Q. And you can refer back -- I'm sorry.</p> <p>22 A. Yeah.</p> <p>23 Q. You can refer back to it if you need to.</p> <p>24 A. They have a high potential for abuse</p>	<p style="text-align: right;">Page 53</p> <p>1 A. Cardinal Health doesn't interact with 2 the ultimate users of the pharmaceuticals. As we 3 talked about, the system is -- Cardinal Health is 4 removed through the closed distribution system.</p> <p>5 Q. Cardinal Health isn't removed; it's 6 specifically included in the closed distribution 7 system; is that true?</p> <p>8 A. I misspoke. Cardinal Health is removed 9 from the ultimate user within the closed 10 distribution system.</p> <p>11 Q. But Cardinal Health does have 12 obligations related to the distribution in 13 ensuring that they -- that these controlled 14 substances maintain into the licit market and not 15 the illicit market, correct?</p> <p>16 MS. MAINIGI: Objection; form.</p> <p>17 A. Cardinal Health has an obligation to 18 maintain effective controls against diversion.</p> <p>19 Q. Why?</p> <p>20 MS. MAINIGI: Objection; form.</p> <p>21 Objection; scope.</p> <p>22 A. I'm not sure I understand your question.</p> <p>23 Q. Sure. You said --</p> <p>24 MR. FULLER: I can never work these</p>

<p style="text-align: right;">Page 54</p> <p>1 little computer thingies.</p> <p>2 THE COURT REPORTER: The arrow on the</p> <p>3 right.</p> <p>4 MR. FULLER: Yeah, I pushed it. It</p> <p>5 doesn't work for me. I don't know why.</p> <p>6 BY MR. FULLER:</p> <p>7 Q. You said Cardinal Health has an</p> <p>8 obligation to maintain effective controls against</p> <p>9 diversion. Why?</p> <p>10 MS. MAINIGI: Objection; form.</p> <p>11 Objection; scope.</p> <p>12 A. My understanding is that's the language</p> <p>13 of the law that applies to us.</p> <p>14 Q. So are they only doing that because</p> <p>15 that's the law that applies to them?</p> <p>16 MS. MAINIGI: Objection; scope.</p> <p>17 A. Cardinal Health is a corporation that</p> <p>18 operates in accordance with the laws that apply to</p> <p>19 it.</p> <p>20 Q. All right. Now, we're going to just</p> <p>21 turn one page, page 27 of this document.</p> <p>22 You see the section there Registration</p> <p>23 Requirements?</p> <p>24 A. I do.</p>	<p style="text-align: right;">Page 56</p> <p>1 MS. MAINIGI: Objection; form.</p> <p>2 Objection; scope.</p> <p>3 A. That is my understanding, that the</p> <p>4 parties in the closed distribution chain are all</p> <p>5 licensed in their various functions.</p> <p>6 Q. Now, if you go to page 34. And I</p> <p>7 promise we're getting to the end of my tabs in</p> <p>8 this document.</p> <p>9 Did you make it there?</p> <p>10 A. I have.</p> <p>11 Q. It says, "The illegal importation,</p> <p>12 manufacture, distribution, and possession, and</p> <p>13 improper use of controlled substances have a</p> <p>14 substantial detrimental effect on the public's</p> <p>15 health and general welfare."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. And does Cardinal agree that that's one</p> <p>19 of the findings by Congress?</p> <p>20 MS. MAINIGI: Objection; scope.</p> <p>21 A. I believe, as we talked about before, in</p> <p>22 accordance with Section 801, that is a finding of</p> <p>23 Congress, yes.</p> <p>24 Q. And that's one of the goals behind this</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. It says, "The legislation provides that</p> <p>2 all persons engaged in the legitimate distribution</p> <p>3 chain involving drugs included in one of the</p> <p>4 schedules under this bill must be registered with</p> <p>5 the Attorney General."</p> <p>6 Does Cardinal agree and concur with that</p> <p>7 statement?</p> <p>8 MS. MAINIGI: Objection to scope.</p> <p>9 A. I agree that that's what that sentence</p> <p>10 says, yes.</p> <p>11 Q. And is that a requirement, to be a</p> <p>12 distributor when you're dealing with controlled</p> <p>13 substances, is to be registered through the</p> <p>14 Attorney General?</p> <p>15 MS. MAINIGI: Objection; form.</p> <p>16 A. That is my understanding.</p> <p>17 Q. And Cardinal is registered with the</p> <p>18 Attorney General through the DEA, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And, again, that goes to that</p> <p>21 whole closed system we were talking about earlier.</p> <p>22 You have to have a ticket to be able to</p> <p>23 participate in this distribution chain; is that</p> <p>24 right?</p>	<p style="text-align: right;">Page 57</p> <p>1 Controlled Substances Act, again, is to ensure the</p> <p>2 legitimate distribution of controlled substances</p> <p>3 in keeping them out of the illicit market, right?</p> <p>4 MS. MAINIGI: Objection; scope.</p> <p>5 A. Yes.</p> <p>6 Q. And Cardinal also recognizes that</p> <p>7 distributions into the illicit market have a</p> <p>8 substantial and detrimental effect on the public's</p> <p>9 health and general welfare?</p> <p>10 MS. MAINIGI: Objection; scope.</p> <p>11 A. Distribution -- the illegal distribution</p> <p>12 has a substantial detrimental effect on the</p> <p>13 public's health and general welfare.</p> <p>14 Q. Okay. Turn to page 44, if you would,</p> <p>15 please.</p> <p>16 And this section just sort of</p> <p>17 resolidifies what we read earlier. Do you see</p> <p>18 Section 301 sort of in the middle of the page</p> <p>19 there?</p> <p>20 A. I do.</p> <p>21 Q. And it says, "Section 301 authorizes the</p> <p>22 Attorney General to promulgate rules and</p> <p>23 regulations and to charge reasonable fees relating</p> <p>24 to the registration and control of the</p>

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<p>1 manufacture, distribution, and dispensing of 2 substances covered by this Act."</p> <p>3 Does Cardinal recognize that as part of 4 the powers conferred to the Attorney General by 5 the United States Congress?</p> <p>6 MS. MAINIGI: Objection; scope.</p> <p>7 A. That's what the language says.</p> <p>8 Q. If you'll turn one more page, 44 -- or 9 excuse me. 45. It starts at the bottom of the 10 page under the Section 303, Registration 11 Requirements.</p> <p>12 Do you see that?</p> <p>13 A. I see the highlighted section. Just one 14 second.</p> <p>15 Q. Take your time. And I'll tell you, the 16 question is going to go on to the next page, so 17 you might want to flip over.</p> <p>18 A. Okay.</p> <p>19 Q. Okay. So I'm not going to start all the 20 way at the top. I'm going to start where it says 21 "In determining."</p> <p>22 Do you see that? Second to last line on 23 the first page.</p> <p>24 A. Yes, sir.</p>	<p>1 health and safety."</p> <p>2 Do you see that?</p> <p>3 A. I see that.</p> <p>4 Q. And we're next going to move to the 5 regulations which deal with suspicious orders.</p> <p>6 You're aware of that, correct?</p> <p>7 MS. MAINIGI: Objection; form.</p> <p>8 A. I'm not aware we're going to move to 9 that. I'm aware of the regulations.</p> <p>10 Q. Well, this is sort of a prequel in a 11 movie. I'm giving you the foreshadowing, okay?</p> <p>12 A. Okay.</p> <p>13 MR. FULLER: You don't have to shake 14 your head every time I do something.</p> <p>15 MS. MAINIGI: Just waiting for the next 16 question.</p> <p>17 BY MR. FULLER:</p> <p>18 Q. But before we do that, you are aware 19 that there is a suspicious order reporting 20 requirement; is that correct?</p> <p>21 A. I am.</p> <p>22 Q. And this obligation to maintain 23 effective controls against diversion is separate 24 and distinct from that other regulation; would you</p>
<p>Page 59</p> <p>1 Q. Ms. Norris, can you read from "In 2 determining" just through -- actually, let me 3 strike that. I'll just read it to you to make it 4 easier because I know where I want to go.</p> <p>5 Ms. Norris, "In determining the public 6 interest, the Attorney General shall consider the 7 following factors."</p> <p>8 Do you see that?</p> <p>9 A. I do.</p> <p>10 Q. And the following factors include 1 11 through 5, but particularly 1 is "The maintenance 12 of the effective controls against diversion of 13 particular controlled substances into other than 14 legitimate medical, scientific, and industrial 15 channels."</p> <p>16 Does Cardinal agree that that is one of 17 the requirements to be a participant in this 18 distribution channel?</p> <p>19 MS. MAINIGI: Objection; scope.</p> <p>20 A. I believe that's generally the 21 obligation.</p> <p>22 Q. And then it goes on to 2, 3, and 4, but 23 significant to us is 5. "Such other factors as 24 may be relevant to and consistent with public</p>	<p>Page 61</p> <p>1 agree?</p> <p>2 MS. MAINIGI: Objection; form.</p> <p>3 Objection; scope.</p> <p>4 A. They're in two separate places, but I 5 would argue that suspicious order reporting is 6 part of maintaining effective controls against 7 diversion.</p> <p>8 Q. It may be a subset, correct?</p> <p>9 A. Yes.</p> <p>10 Q. You would also agree, as Cardinal, that 11 there are other things that we have to do to 12 maintain effective controls against diversion 13 other than suspicious order reporting, correct?</p> <p>14 MS. MAINIGI: Objection; form.</p> <p>15 A. Yes.</p> <p>16 Q. What are some of those other things that 17 Cardinal has to do to prevent or have effective 18 controls against diversion?</p> <p>19 MS. MAINIGI: Objection; form.</p> <p>20 Objection; scope.</p> <p>21 I think, Mike, if you are asking what 22 does Cardinal do to meet its obligations, that 23 might be the better question.</p> <p>24 MR. FULLER: I'll strike the question.</p>

<p style="text-align: right;">Page 62</p> <p>1 Don't worry about it.</p> <p>2 BY MR. FULLER:</p> <p>3 Q. All right. I think we're done with that</p> <p>4 book.</p> <p>5 - - -</p> <p>6 (Cardinal-Norris Exhibit 6 marked.)</p> <p>7 - - -</p> <p>8 Q. All right. Next is Norris 6, which is</p> <p>9 going to be Plaintiff's Number 6.</p> <p>10 What did I tell you? Where do we go</p> <p>11 next?</p> <p>12 I'm sorry. Do you have Exhibit Number 6</p> <p>13 in front of you, Ms. Norris?</p> <p>14 A. I do.</p> <p>15 Q. Okay. And this is -- we were earlier</p> <p>16 looking at the U.S. Code, correct, and now we're</p> <p>17 looking at the Code of Federal Regulations, right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And this is still Title 21,</p> <p>20 Chapter 2. Do you see that? "Drug Enforcement</p> <p>21 Administration, Department of Justice."</p> <p>22 A. I see that in the title.</p> <p>23 MS. MAINIGI: And, Mr. Fuller, for the</p> <p>24 purpose of the record, is it fair to say that you</p>	<p style="text-align: right;">Page 64</p> <p>1 applies to Cardinal.</p> <p>2 Q. Okay. And then read the requirements</p> <p>3 under B to us, if you would, please.</p> <p>4 A. "The registrant shall design and operate</p> <p>5 a system to disclose to the registrant suspicious</p> <p>6 orders of controlled substances. The registrant</p> <p>7 shall inform the field division office of the</p> <p>8 administration in his area of suspicious orders</p> <p>9 when discovered by the registrant. Suspicious</p> <p>10 orders include orders of unusual size, orders</p> <p>11 deviating substantially from a normal pattern, and</p> <p>12 orders of unusual frequency."</p> <p>13 Q. And does Cardinal believe it fits the</p> <p>14 description of registrant as it relates to this</p> <p>15 code section -- this regulation? I'm sorry.</p> <p>16 A. Yes. Cardinal is a registrant.</p> <p>17 Q. And does Cardinal believe it has an</p> <p>18 obligation under this regulation to operate a</p> <p>19 system to disclose suspicious orders of controlled</p> <p>20 substances?</p> <p>21 A. Cardinal Health's obligation is to</p> <p>22 comply with this section, which requires it to</p> <p>23 design and operate a system to disclose suspicious</p> <p>24 orders of controlled substances.</p>
<p style="text-align: right;">Page 63</p> <p>1 again have just excerpted a portion of the</p> <p>2 regulations?</p> <p>3 MR. FULLER: Yes, ma'am. Although, we</p> <p>4 sometimes question what our rulemaking bodies do,</p> <p>5 they did not start with B.</p> <p>6 MS. MAINIGI: Thank you.</p> <p>7 MR. FULLER: Fair enough.</p> <p>8 BY MR. FULLER:</p> <p>9 Q. And this is -- Ms. Norris, this is Part</p> <p>10 1301, "Registration of Manufacturers,</p> <p>11 Distributors, and Dispensers of Controlled</p> <p>12 Substances, Security Requirements."</p> <p>13 Have you seen this section before or the</p> <p>14 complete section?</p> <p>15 A. I have.</p> <p>16 Q. And if you will read 1301.74 there to</p> <p>17 us, please.</p> <p>18 A. "Other security controls for</p> <p>19 non-practitioners; narcotic treatment programs and</p> <p>20 compounders for narcotic treatment programs."</p> <p>21 Q. And does Cardinal agree that this</p> <p>22 section applies to them?</p> <p>23 MS. MAINIGI: Objection; scope.</p> <p>24 A. It's my understanding that this section</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. And if you look at the bottom of this</p> <p>2 section, it gives a date.</p> <p>3 Do you see that date there, April 24th</p> <p>4 of 1971?</p> <p>5 A. I do.</p> <p>6 Q. And I'll represent to you that that's</p> <p>7 the date this particular regulation was created.</p> <p>8 Is that your understanding, is that this</p> <p>9 regulation has been in place since approximately</p> <p>10 1971?</p> <p>11 A. It is.</p> <p>12 Q. Is it your understanding that this</p> <p>13 regulation has remained significantly unchanged</p> <p>14 since 1971, meaning that there has been a</p> <p>15 suspicious order reporting requirement since that</p> <p>16 time?</p> <p>17 A. The language of the statute has not</p> <p>18 changed since 1971. Guidance from the DEA</p> <p>19 regarding the statute has evolved over time.</p> <p>20 Q. So, again, let me ask the question. Is</p> <p>21 it your understanding that Cardinal has had a</p> <p>22 suspicious order reporting requirement since 1971?</p> <p>23 A. This requirement has been in place since</p> <p>24 1971 and applicable to Cardinal Health as modified</p>

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1 by the guidance provided by the DEA over the 2 years. 3 Q. Sure. And we'll talk about that. 4 A. Sure. 5 Q. I'm sure we will spend a good bit of the 6 day on that. 7 Does Cardinal operate a system to 8 disclose suspicious orders? 9 A. Yes. 10 Q. And have they always operated or 11 maintained such a system? 12 A. Yes, in accordance with the DEA 13 guidance. 14 - - - 15 (Cardinal-Norris Exhibit 7 marked.) 16 - - - 17 Q. And just so we have -- no, that's not 18 going to work. 19 I'm going to put up Exhibit Number 7, 20 which is Norris 07 and also going to be 21 Plaintiff's Exhibit Number 7. You see -- and I'm 22 sorry. I'm jumping around on you. But back on 23 Number 6, you see there at the bottom, it also 24 says, "36 FR 7778" -- excuse me.	1 A. Generally. There's some variation. 2 Q. But no substantive changes; can we 3 agree? 4 MS. MAINIGI: Objection. 5 A. It does not appear to be substantive. 6 Q. So does Cardinal agree and accept that 7 the obligations under 21 CFR 1301.74(b) have been 8 in place and applied to Cardinal since 1971? 9 MS. MAINIGI: Objection; form. 10 Objection; scope. 11 A. This regulation has been in place since 12 1971. To the extent Cardinal Health was 13 distributing pharmaceuticals -- I believe they 14 were -- yes, this is applicable. 15 Q. Thank you. I was going to go back and 16 place that caveat in there, but you did it for me. 17 I appreciate that. 18 We've been going a little over an hour 19 already. Do you mind if we take a break real 20 quick? 21 A. It's up to you. 22 MR. FULLER: Are you good? 23 MS. MAINIGI: Mm-hmm. 24 THE VIDEOGRAPHER: The time is now 9:23.
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1 MS. MAINIGI: You're at the bottom of 2 the 6? 3 A. Yep. Yes, I see that. 4 Q. Actually, just ignore that. 5 A. Okay. 6 Q. Go on to Number 7. And if you will 7 turn -- and, again, feel free to review it. If 8 you'll go to page 7 of that document. I'm sorry. 9 Page 10. 10 Do you see the highlighted section 11 there? 12 A. I'm sorry. What page? I was 13 familiarizing -- 14 Q. I'm sorry. Page -- 15 A. -- myself at least with what this 16 document is. 17 Q. Fair enough. Fair enough. 18 And I'll represent to you it is the 19 actual regulation back in 1971. 20 A. Okay. And now what page? 21 Q. It's page 10 of that document. And if 22 you look real briefly at the highlighted section, 23 tell me whether it appears to be the same 24 regulation that we just read.	1 Going off the record. 2 (Recess taken.) 3 THE VIDEOGRAPHER: The time is now 9:44. 4 Back on the record. 5 - - - 6 (Cardinal-Norris Exhibit 8 marked.) 7 - - - 8 BY MR. FULLER: 9 Q. Next we'll mark Plaintiff's Exhibit 10 Number 8, which is Norris 11. 11 MS. MAINIGI: Norris 11? 12 MR. FULLER: Yes. So that's my sort of 13 Bates numbering at the top. Sorry. 14 MS. MAINIGI: But the last one we marked 15 was Norris 7, right? 16 MR. FULLER: Yes. 17 MS. MAINIGI: Okay. But you want to 18 jump to 11? 19 MR. FULLER: Yes, ma'am. 20 MS. VELDMAN: No, no. It's still 8. 21 MR. FULLER: No. For the record, it's 22 going to be 8, but my numbering system is going to 23 be -- 24 MS. MAINIGI: Yeah. Thank you.

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<p>1 MR. FULLER: Sorry.</p> <p>2 MS. MAINIGI: No, no, no. That's okay.</p> <p>3 A. We're done with the regulations?</p> <p>4 Q. Yes, ma'am.</p> <p>5 MR. FULLER: And I'm sorry, Enu -- or</p> <p>6 Counsel. It's -- I have them labeled a certain</p> <p>7 way so --</p> <p>8 MS. MAINIGI: That's totally fine.</p> <p>9 MR. FULLER: -- Gina knows, but as far</p> <p>10 as Plaintiff exhibit numbers --</p> <p>11 MS. MAINIGI: She seems to have it under</p> <p>12 control, so all good.</p> <p>13 MR. FULLER: She does a great job.</p> <p>14 BY MR. FULLER:</p> <p>15 Q. Ms. Norris, have you ever heard of the</p> <p>16 HathiTrust?</p> <p>17 A. I have not.</p> <p>18 Q. Neither had I until this litigation, or</p> <p>19 until Paul Farrell, Jr., told me about it.</p> <p>20 MR. FULLER: That is awful loud.</p> <p>21 MS. MAINIGI: Yeah. I was just thinking</p> <p>22 the same thing. It is very loud.</p> <p>23 THE WITNESS: If you speak up, I think I</p> <p>24 will be fine. I will ensure that I do the same.</p>	<p>1 MS. MAINIGI: Objection; scope.</p> <p>2 A. It's a pharmaceutical to treat pain.</p> <p>3 Q. It's an opioid medication, right?</p> <p>4 MS. MAINIGI: Objection; scope.</p> <p>5 A. I believe it is an opioid, yes.</p> <p>6 Q. Okay. And let's back up a little bit</p> <p>7 before we get into this document.</p> <p>8 And going back to the regulations and</p> <p>9 everything that we just went through, rules, for a</p> <p>10 lack of a better term, do you have an</p> <p>11 understanding that the -- does Cardinal have an</p> <p>12 understanding that the Controlled Substances Act</p> <p>13 was designed to prevent the American public from</p> <p>14 diversion of controlled substances?</p> <p>15 MS. MAINIGI: Objection; scope.</p> <p>16 A. The -- I believe the Controlled</p> <p>17 Substances Act was designed to ensure there was</p> <p>18 oversight over the distribution of controlled</p> <p>19 substances.</p> <p>20 Q. And why do we want oversight over</p> <p>21 controlled substances? Because they're</p> <p>22 potentially dangerous; is that right?</p> <p>23 MS. MAINIGI: Objection; scope.</p> <p>24 A. I believe we read Congress identified</p>
<p style="text-align: center;">Page 71</p> <p>1 MR. FULLER: I don't know how it's</p> <p>2 picking up on the tape, though. All right. Well,</p> <p>3 we'll try.</p> <p>4 BY MR. FULLER:</p> <p>5 Q. The HathiTrust is a non-profit set of</p> <p>6 libraries that actually collects stuff throughout</p> <p>7 history, generally Congressional type of items.</p> <p>8 And what you have before you, if you turn to the</p> <p>9 second page, is a hearing before the Subcommittee</p> <p>10 on Oversight and Investigations.</p> <p>11 Do you see that?</p> <p>12 A. I see that in the title, yes.</p> <p>13 Q. Yes, ma'am. And what is the title of</p> <p>14 this hearing?</p> <p>15 A. "OxyContin: Its Use and Abuse."</p> <p>16 Q. And you're aware, are you not, that</p> <p>17 OxyContin is a product that was put on the market</p> <p>18 in 1996 by Purdue Pharma?</p> <p>19 MS. MAINIGI: Objection; scope.</p> <p>20 A. I don't -- I don't know the exact date</p> <p>21 in my personal capacity.</p> <p>22 Q. Do you know what OxyContin is?</p> <p>23 A. I do.</p> <p>24 Q. What is OxyContin?</p>	<p style="text-align: center;">Page 73</p> <p>1 that at least Schedule II controlled substances</p> <p>2 have a high potential for abuse.</p> <p>3 Q. And that they're actually dangerous if</p> <p>4 not used appropriately, correct?</p> <p>5 MS. MAINIGI: Objection; scope.</p> <p>6 A. They have a high potential for abuse.</p> <p>7 Q. So does that mean they're potentially</p> <p>8 dangerous?</p> <p>9 MS. MAINIGI: Objection; scope.</p> <p>10 A. I'm not sure. "Dangerous" has a lot of</p> <p>11 connotations. They have a high potential for</p> <p>12 abuse per the language in the statute --</p> <p>13 regulation. Sorry.</p> <p>14 Q. So, ma'am, going back to Exhibit Number</p> <p>15 5, which you have there, on page 8 of that</p> <p>16 document -- let me know when you have that.</p> <p>17 A. I do. Page 8, yes.</p> <p>18 Q. It says there at the end that "While at</p> <p>19 the same time providing the legitimate drug</p> <p>20 industry with a unified approach to narcotic and</p> <p>21 dangerous drug control."</p> <p>22 Correct?</p> <p>23 A. That's what the language says, yes.</p> <p>24 Q. So it recognizes that these are</p>

<p style="text-align: right;">Page 74</p> <p>1 potentially dangerous drugs; would you agree with 2 that?</p> <p>3 MS. MAINIGI: Objection; form.</p> <p>4 Objection; scope.</p> <p>5 Q. Or do you disagree?</p> <p>6 MR. FULLER: Objection; form.</p> <p>7 Objection; scope.</p> <p>8 A. I think they're using the term 9 "dangerous" to create a category of drugs, not -- 10 so ...</p> <p>11 Q. Would you agree they're trying to 12 control dangerous drugs, whether you look at it as 13 a category or an individual drug, correct?</p> <p>14 MS. MAINIGI: Objection; form.</p> <p>15 Objection; scope.</p> <p>16 A. Yes, understanding the legitimate -- 17 there is a legitimate purpose and use for these 18 pharmaceuticals.</p> <p>19 Q. That is undeniable as they set out in 20 each one of their schedules. We looked at 21 Schedule II. There is a legitimate medical 22 purpose. We can agree on that, correct?</p> <p>23 A. Yes.</p> <p>24 Q. But these are also potentially dangerous</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Do you think -- does Cardinal believe 2 that drugs that have a high potential for abuse 3 could be potentially dangerous?</p> <p>4 MS. MAINIGI: Objection; form.</p> <p>5 Objection; scope.</p> <p>6 A. Not necessarily.</p> <p>7 Q. Well, that's why I said "can be 8 potentially dangerous." So let me ask the 9 question again.</p> <p>10 Does Cardinal believe that drugs that 11 have a high potential for abuse can be potentially 12 dangerous?</p> <p>13 MS. MAINIGI: Objection; form.</p> <p>14 Objection; scope.</p> <p>15 A. Perhaps.</p> <p>16 Q. So is that a yes?</p> <p>17 MS. MAINIGI: Objection; form.</p> <p>18 Objection; scope.</p> <p>19 A. Potentially. Perhaps, yes.</p> <p>20 Q. Okay. So just so I get it clean on the 21 record, does Cardinal believe that drugs that have 22 a high potential for abuse can be potentially 23 dangerous?</p> <p>24 MS. MAINIGI: Objection; form. Asked</p>
<p style="text-align: right;">Page 75</p> <p>1 drugs, particularly when we're talking about 2 Schedule II?</p> <p>3 MS. MAINIGI: Objection; form.</p> <p>4 Objection; scope.</p> <p>5 A. They're not particularly mentioning 6 Schedule II in this language. I agree that 7 Schedule II drugs per the language have a high 8 potential for abuse.</p> <p>9 Q. So are they dangerous drugs or not; yes 10 or no?</p> <p>11 MS. MAINIGI: Objection; form.</p> <p>12 Objection; scope.</p> <p>13 Q. You could say yes, no, or I don't know.</p> <p>14 A. I can't opine on whether that's what 15 they meant when they said "dangerous drug control" 16 here. I can only say what the statute says.</p> <p>17 Q. Okay. And it specifically refers to 18 dangerous drugs?</p> <p>19 A. The Congressional Record refers to 20 dangerous drugs.</p> <p>21 Q. Yes, ma'am.</p> <p>22 A. The statute talks about drugs with a 23 high potential for abuse, but also having a 24 legitimate medical purpose.</p>	<p style="text-align: right;">Page 77</p> <p>1 and answered multiple times now. Objection; 2 scope.</p> <p>3 A. Perhaps, yes.</p> <p>4 Q. And can we agree that the rules that are 5 laid out are partially designed to keep the 6 American people safe when we're dealing with 7 controlled substances?</p> <p>8 MS. MAINIGI: Objection; scope.</p> <p>9 A. The rules, as I understand them, are to 10 ensure that the participants in the distribution 11 system understand their obligations and operate 12 within that distribution -- that closed 13 distribution system, maintaining the security of 14 the pharmaceuticals we distribute, the scheduled 15 substances we distribute.</p> <p>16 Q. And the rules also indicate a 17 Congressional finding that if we don't keep them 18 in their legitimate channels, that they can be 19 dangerous to the health and general welfare of the 20 American public, correct?</p> <p>21 MS. MAINIGI: Objection; form. Asked 22 and answered. Objection; scope.</p> <p>23 A. Congress made a finding that the illegal 24 distribution -- let me make sure I read it</p>

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<p>1 correctly -- "would have a substantial and 2 detrimental effect on the health and general 3 welfare of the American people."</p> <p>4 Q. So can we agree that that's one of the 5 type of things that they're trying to protect 6 from?</p> <p>7 MS. MAINIGI: Objection; form. 8 Objection; scope.</p> <p>9 A. I don't know what Congress was thinking. 10 I know that was one of their findings as an 11 introduction.</p> <p>12 Q. So does Cardinal believe the intent 13 behind the Controlled Substances Act is to try to 14 protect the American people from the illicit 15 distribution of controlled substances; yes or no?</p> <p>16 MS. MAINIGI: Objection; form. 17 Objection; scope.</p> <p>18 A. Can you ask the question again? I'm 19 sorry.</p> <p>20 Q. Sure. Does Cardinal believe that the 21 Controlled Substances Act -- let me try that 22 again.</p> <p>23 Does Cardinal believe that the 24 Controlled Substances Act is to protect the</p>	<p>1 American public?</p> <p>2 MS. MAINIGI: Objection; scope. 3 Objection; form.</p> <p>4 A. I agree that that is what this language 5 says.</p> <p>6 Q. That that's what the Congress found in 7 the subcommittee, correct?</p> <p>8 MS. MAINIGI: Objection; form. 9 Objection; scope.</p> <p>10 A. Because I'm not really familiar with 11 this document, if this is what --</p> <p>12 Q. Well, I didn't alter it, I promise.</p> <p>13 A. No, I understand that. I just want to 14 make sure we're talking about the same thing. If 15 that is what this document says and if you're 16 telling me that's what this document is, that is 17 what this document says.</p> <p>18 Q. And, therefore, Congress made a finding 19 in the subcommittee that as of 2001, OxyContin is 20 providing a dilemma for the American public -- or 21 the abuse of OxyContin is, correct?</p> <p>22 MS. MAINIGI: Objection; form. 23 Objection; scope.</p> <p>24 A. That is what the document says, yes.</p>
<p style="text-align: center;">Page 79</p> <p>1 American people from the illicit distribution of 2 controlled substances; yes or no?</p> <p>3 MS. MAINIGI: Objection; form. 4 Objection; scope.</p> <p>5 A. I can't opine in my personal capacity on 6 what Cardinal believes. Cardinal understands its 7 obligations under the statute, regs, and the 8 guidance from the DEA.</p> <p>9 Q. Okay. Fair enough. Let's go to that 10 Exhibit 8 now. If you'll turn to page 6 of that 11 document. On page 6, this is the introductory 12 statement by the chairman of the Subcommittee on 13 Oversight and Investigations, James Greenwood from 14 Pennsylvania.</p> <p>15 Can you read that highlighted section 16 there that starts with "The use and the abuse."</p> <p>17 A. "The use and the abuse of OxyContin 18 provides quite a dilemma for us in Congress and 19 for the American public. For some, OxyContin is 20 the angel of mercy. For others, it is the angel 21 of death."</p> <p>22 Q. Do you recognize by this time in 2001, 23 that Congress has found that the use and abuse of 24 OxyContin has created quite a dilemma for the</p>	<p style="text-align: center;">Page 81</p> <p>1 Q. Okay. And if you go down to the next 2 paragraph that starts off "Today."</p> <p>3 It says, "Today, we will hear from law 4 enforcement officials who argue that OxyContin has 5 quickly become the abuser's drug of choice 6 surpassing heroin and cocaine in some 7 jurisdictions."</p> <p>8 Does Cardinal recognize that even again 9 back in 2001, that there's concern by law 10 enforcement of OxyContin becoming the abuser's 11 drug of choice?</p> <p>12 MS. MAINIGI: Objection; scope. 13 A. That is what this language says. 14 Q. And you have no reason to disagree with 15 this language, do you?</p> <p>16 MS. MAINIGI: Objection; scope. 17 A. In my personal capacity, I don't if this 18 is what Congress had on the record.</p> <p>19 Q. And during 2001, Cardinal Health was 20 distributing OxyContin, correct?</p> <p>21 A. Yes. 22 Q. If you turn to page 8. Let me know when 23 you get there.</p> <p>24 There's the rocket ship again.</p>

<p style="text-align: right;">Page 82</p> <p>1 A. Okay.</p> <p>2 Q. You see where it reads "These actions, 3 though commendable, also appear long overdue. 4 According to the DEA, the number of OxyContin -- 5 excuse me -- oxycodone-related deaths has 6 increased nearly 400 percent since 1996, the same 7 period -- excuse me -- the same time period in 8 which the annual number of prescriptions for 9 OxyContin has risen from approximately 300,000 to 10 almost 6 million."</p> <p>11 Did I read that correctly?</p> <p>12 A. I believe so.</p> <p>13 Q. And is Cardinal aware that deaths were 14 increasing from oxycodone overdoses during this 15 time frame?</p> <p>16 MS. MAINIGI: Objection; scope. I'm 17 also going to interpose my one time, but have it 18 be continuing -- a time period objection 19 consistent with Discovery Rulings 2 and 3 of the 20 Special Master, which -- our reading of which 21 allows you to question on the time period 2006 22 forward with the exception of the suspicious order 23 reports aspect of those rulings.</p> <p>24 So I will just interpose a continuing</p>	<p style="text-align: right;">Page 84</p> <p>1 customers and where it is delivering 2 pharmaceuticals to. 3 (Reporter clarification.)</p> <p>4 A. Cardinal Health understands who its 5 customers are and where it's delivering to.</p> <p>6 Q. And Cardinal Health would also stay 7 abreast of what's going on in those communities 8 that it's delivering to; is that fair?</p> <p>9 MS. MAINIGI: Objection; scope, as well 10 as time period.</p> <p>11 A. Again, I wasn't at the company at this 12 time. I don't -- I don't know.</p> <p>13 Q. You would expect Cardinal Health would 14 be aware if drugs that it was distributing were 15 causing an increasing number of deaths in the 16 communities to which it distributed; is that fair?</p> <p>17 MS. MAINIGI: Objection; scope, form.</p> <p>18 A. I can't say.</p> <p>19 Q. Should Cardinal be aware if oxycodone 20 that it's distributing is causing nearly a 21 400 percent increase in deaths across this 22 country?</p> <p>23 MS. MAINIGI: Objection; scope, form, 24 and time period.</p>
<p style="text-align: right;">Page 83</p> <p>1 objection for any questions you ask that may 2 relate to time periods earlier than 2006. She'll 3 answer all of your questions and we'll deal with 4 it later.</p> <p>5 MR. FULLER: That's fair enough.</p> <p>6 A. I'm sorry. Could you repeat the 7 question?</p> <p>8 Q. And Cardinal was aware that during this 9 time frame that deaths were increasing from 10 OxyContin overdoses -- or excuse me -- oxycodone. 11 No, it's OxyContin. No, it's not. Back up. 12 Sorry.</p> <p>13 Cardinal is aware that during this time, 14 oxycodone overdoses were rapidly increasing, 15 correct?</p> <p>16 MS. MAINIGI: Objection; scope.</p> <p>17 A. I can't speak as to what Cardinal Health 18 was aware of at this time. I didn't work there.</p> <p>19 Q. Sure. And I get that. But one of the 20 things that Cardinal did was stay informed as to 21 what was going on in the world, the communities it 22 delivered to, correct?</p> <p>23 MS. MAINIGI: Objection; scope.</p> <p>24 A. Cardinal Health understands its</p>	<p style="text-align: right;">Page 85</p> <p>1 A. Cardinal Health -- Cardinal Health isn't 2 aware of deaths related to products it 3 distributes.</p> <p>4 Q. So Cardinal Health doesn't have any 5 information as to whether products it distributed 6 caused or contributed to anyone's demise?</p> <p>7 MS. MAINIGI: Objection; scope.</p> <p>8 A. I think, as we talked about earlier, 9 Cardinal Health distributes to licensed pharmacies 10 who dispense pursuant to prescriptions by licensed 11 physicians that then go to users. Cardinal Health 12 is not aware of any deaths related to the 13 pharmaceuticals that it has distributed.</p> <p>14 Q. Are you sure?</p> <p>15 MS. MAINIGI: Objection; form.</p> <p>16 Objection; scope.</p> <p>17 A. I am.</p> <p>18 Q. Give her just a second to --</p> <p>19 A. I'm sorry.</p> <p>20 Q. That's all right.</p> <p>21 Is Cardinal aware that OxyContin -- or 22 excuse me -- oxycodone that's distributed by it or 23 others has contributed to increased deaths in this 24 country?</p>

<p style="text-align: right;">Page 86</p> <p>1 MS. MAINIGI: Objection; form.</p> <p>2 Objection; scope.</p> <p>3 A. It is not.</p> <p>4 Q. So oxycodone, how does it get to the</p> <p>5 pharmacies?</p> <p>6 MS. MAINIGI: Objection; scope.</p> <p>7 A. Cardinal Health distributes oxycodone,</p> <p>8 as well as many other pharmaceuticals, to licensed</p> <p>9 pharmacies.</p> <p>10 Q. And there are others out there that</p> <p>11 distribute oxycodone and OxyContin as well,</p> <p>12 correct? AmerisourceBergen.</p> <p>13 A. Other distributors?</p> <p>14 Q. Yes, ma'am.</p> <p>15 A. Yes.</p> <p>16 Q. We don't have Joe making oxycodone in</p> <p>17 his trailer up in the foothills of West Virginia,</p> <p>18 do we?</p> <p>19 MS. MAINIGI: Objection; form.</p> <p>20 Objection; scope.</p> <p>21 A. Not to my knowledge.</p> <p>22 Q. To your knowledge, no one is out there</p> <p>23 in their homes or farmhouses manufacturing</p> <p>24 OxyContin, correct?</p>	<p style="text-align: right;">Page 88</p> <p>1 A. The distributor -- I know you're not</p> <p>2 going to want to hear -- the distributor</p> <p>3 distributes to a licensed pharmacy who dispenses</p> <p>4 pursuant to a prescription from a licensed</p> <p>5 physician.</p> <p>6 Q. Yes, ma'am. And I'll ask you again.</p> <p>7 Just listen to my question and answer the question</p> <p>8 I'm asking.</p> <p>9 A. I hear your question. Yes.</p> <p>10 Q. Well, and I'm hearing your answer, but</p> <p>11 my problem is you're not answering the question</p> <p>12 I'm asking. Okay? So let me try it one more</p> <p>13 time.</p> <p>14 In order for the people out there that</p> <p>15 are getting these oxycodone pills that are causing</p> <p>16 these overdoses, those pills have to come through</p> <p>17 a wholesale distributor; is that correct or</p> <p>18 incorrect?</p> <p>19 MS. MAINIGI: Objection; asked and</p> <p>20 answered multiple times. Objection; scope.</p> <p>21 Mike, you may not like her answer, but</p> <p>22 she has, in fact, answered your question multiple</p> <p>23 times. I'll ask her to answer it again.</p> <p>24 Q. It's a yes or no question.</p>
<p style="text-align: right;">Page 87</p> <p>1 MS. MAINIGI: Objection; form.</p> <p>2 Objection; scope.</p> <p>3 A. Not to my knowledge.</p> <p>4 Q. So the only way these people are getting</p> <p>5 oxycodone that they're overdosing from is when we</p> <p>6 go up the chain from a manufacturer that has</p> <p>7 distributed or sold to a wholesale distributor who</p> <p>8 has sold to a pharmacy, correct?</p> <p>9 MS. MAINIGI: Objection; form.</p> <p>10 Objection; scope.</p> <p>11 A. Cardinal Health has distributed the</p> <p>12 pharmaceuticals to a licensed pharmacy for</p> <p>13 dispensing pursuant to a licensed -- prescription</p> <p>14 from a licensed physician.</p> <p>15 Q. Yes, ma'am. I understand that. You've</p> <p>16 told me that several times, but that's not my</p> <p>17 question. So listen to my question, and we'll</p> <p>18 move through this.</p> <p>19 In order for the people out there to get</p> <p>20 these oxycodone pills that they're overdosing on,</p> <p>21 it had to have come through a wholesale</p> <p>22 distributor; correct or incorrect?</p> <p>23 MS. MAINIGI: Objection; form.</p> <p>24 Objection; scope.</p>	<p style="text-align: right;">Page 89</p> <p>1 Did those pills have to come through a</p> <p>2 wholesale distributor?</p> <p>3 MS. MAINIGI: Objection; asked and</p> <p>4 answered. Objection; scope.</p> <p>5 A. Cardinal Health distributes to a</p> <p>6 licensed pharmacy who dispenses prescriptions from</p> <p>7 a licensed physician.</p> <p>8 Q. Again, that's not my question. I'm</p> <p>9 asking you if Cardinal knows whether these pills</p> <p>10 that are causing overdoses have to come through a</p> <p>11 licensed wholesale distributor before they get to</p> <p>12 the person who is overdosing? That's all I'm</p> <p>13 asking.</p> <p>14 I understand that you guys distribute to</p> <p>15 licensed pharmacies. You've made that abundantly</p> <p>16 clear.</p> <p>17 You would agree with me, would you not,</p> <p>18 that those pills have to come through a wholesale</p> <p>19 distributor before they get to the person that is</p> <p>20 ultimately overdosing on them, correct?</p> <p>21 MS. MAINIGI: Objection; form. Asked</p> <p>22 and answered multiple times. Objection; scope.</p> <p>23 Answer it one more time.</p> <p>24 Q. I'll just be happy if you answer my</p>

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<p>1 question once.</p> <p>2 A. The pharmaceuticals move through the 3 closed distribution system, from a wholesaler to a 4 licensed pharmacy, dispensed from a licensed 5 prescriber.</p> <p>6 Q. So they have to go through a licensed 7 wholesale distributor before getting to the end 8 user or the person overdosing, correct?</p> <p>9 MS. MAINIGI: Objection; asked and 10 answered. Objection; form.</p> <p>11 Mike, why don't we -- she's answered it 12 multiple times. You don't like her answer. Why 13 don't you just move on?</p> <p>14 MR. FULLER: I just want her to answer 15 the question I asked.</p> <p>16 MS. MAINIGI: She's answered it multiple 17 times.</p> <p>18 MR. FULLER: No.</p> <p>19 BY MR. FULLER:</p> <p>20 Q. Go ahead, ma'am.</p> <p>21 A. The pharmaceuticals we distribute are 22 distributed to a licensed pharmacy for dispensing 23 pursuant to a licensed prescription -- 24 prescription from a licensed physician. Sorry.</p>	<p>1 Q. And the communities that they are 2 providing all these pills to, these drugs to, 3 correct?</p> <p>4 MS. MAINIGI: Objection; scope and form.</p> <p>5 A. I can't say what Cardinal Health was 6 doing at this time. I wasn't there.</p> <p>7 Q. But you did just testify that Cardinal 8 did its job in staying informed as to what's going 9 on in the communities that it's distributing to 10 around the country -- or excuse me. That's my 11 question. I'm sorry. I was going to say that 12 sounded like a pretty damn good answer.</p> <p>13 MS. MAINIGI: I would stick with that 14 one, Mike.</p> <p>15 Q. You testified that "Cardinal Health 16 understands customers that it's distributed to." 17 When you say "understands customers," what is its 18 obligation related to understanding customers, if 19 you know?</p> <p>20 A. I think -- I want to be careful about 21 the word -- use of the word "obligation." As part 22 of Cardinal Health's anti-diversion program, we 23 have a "know your customer" component where we 24 inquire, ask questions, obtain information from</p>
<p>1 Q. If you go to the next section of this 2 page. "In its testimony today, Purdue Pharma will 3 argue that the death figures heralded by 4 newspapers nationwide are inaccurate and are the 5 prime mover of negative hype surrounding 6 OxyContin."</p> <p>7 Do you see that?</p> <p>8 A. I see that language.</p> <p>9 Q. And does Cardinal recognize that during 10 this time frame, newspapers are reporting these 11 death figures from OxyContin overdoses?</p> <p>12 MS. MAINIGI: Objection; form, time 13 period, and scope.</p> <p>14 A. I can't say. Again, I didn't work at 15 the company and know what newspapers they may or 16 may not have read.</p> <p>17 Q. But, again, Cardinal did its job in 18 staying informed as to what's going on in the 19 communities that it's distributing to around the 20 country, correct?</p> <p>21 MS. MAINIGI: Objection; scope and time 22 period.</p> <p>23 A. Cardinal Health understands the 24 customers that it is distributing to.</p>	<p>1 our customers to get an idea about the general 2 area in which they're operating their business.</p> <p>3 Q. And the increase in prescriptions from 4 300,000 to almost 6 million from 1996 to 2001, you 5 would agree that's a significant increase in the 6 prescriptions for OxyContin, correct?</p> <p>7 MS. MAINIGI: Objection; scope.</p> <p>8 A. That's an increase from 300,000 to 9 6 million. I don't know how we want to define 10 "significant." During that time, the DEA was 11 approving and increasing the quotas to allow that 12 many prescriptions, so ...</p> <p>13 Q. So it's a 20-time increase over a what, 14 a five-year period, four-year -- five-year period? 15 Do you not consider that significant?</p> <p>16 MS. MAINIGI: Objection; form.</p> <p>17 Objection; scope.</p> <p>18 A. It depends on the circumstances. Like I 19 said, the DEA felt there was legitimate medical 20 needs for these prescriptions. They were 21 increasing the quotas during this time period.</p> <p>22 Q. Do you have an understanding of how they 23 were increasing the quotas and what information 24 they were relying on when increasing these quotas?</p>

<p style="text-align: right;">Page 94</p> <p>1 MS. MAINIGI: Objection; scope. 2 Objection; time period. 3 A. I don't know exactly how they increased 4 the quotas. I would be guessing that they rely on 5 a variety of information. 6 Q. Including information provided by the 7 manufacturers and wholesale distributors, correct? 8 MS. MAINIGI: Objection; scope. 9 A. That is likely one of the data points. 10 Q. And this increase -- this 20 times 11 multiple increase in OxyContin prescriptions, 12 those pills all have to flow through the wholesale 13 distributor as you testified, correct? 14 MS. MAINIGI: Objection; form. 15 Objection; scope. Objection; asked and answered. 16 A. I believe I testified that the 17 pharmaceuticals are distributed by -- the pills 18 are distributed by Cardinal Health to a licensed 19 pharmacy for dispensing pursuant to a prescription 20 from a licensed physician. 21 Q. So that means more business for Cardinal 22 Health, correct? 23 MS. MAINIGI: Objection; scope. 24 A. I don't know that Cardinal Health</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. Ma'am, even if it distributed some of 2 them, it would have increased the business; would 3 it not? 4 MS. MAINIGI: Objection; scope. 5 Objection; form. Objection; time period. 6 A. A small portion of the overall 7 pharmaceuticals that Cardinal Health distributes. 8 Q. So is that a yes, it would have 9 increased the business? 10 MS. MAINIGI: Objection; asked and 11 answered. Objection; form and scope, and time 12 period. 13 A. I don't know specifically. 14 MR. FULLER: All right. This is Norris 15 31. 16 - - - 17 (Cardinal-Norris Exhibit 9 marked.) 18 - - - 19 MR. FULLER: This is going to be 20 Plaintiff's Exhibit Number 9. 21 BY MR. FULLER: 22 Q. Do you see this document, ma'am, what's 23 been marked as Plaintiff's Number 9? It's 24 entitled "Under the Counter: The Diversion and</p>
<p style="text-align: right;">Page 95</p> <p>1 distributed all of these. 2 Q. Well, they may not have distributed all 3 of them, but they probably distributed some of 4 them. 5 Can we agree to that? 6 MS. MAINIGI: Objection; scope. 7 Objection; time period. 8 A. Perhaps as a small percentage of 9 everything else Cardinal Health distributes to its 10 customers. 11 Q. So we can agree that this increase also 12 increased the business at Cardinal Health? 13 MS. MAINIGI: Objection; time period. 14 Objection; scope. 15 Q. Yeah. Let me strike that. Let me ask 16 it a little better. 17 We can agree that this 20-time increase 18 in the number of OxyContin prescriptions also 19 increased the business at Cardinal Health? 20 MS. MAINIGI: Objection; scope. 21 Objection; time period. Objection; form. 22 A. Not necessarily. As I said, I don't 23 know that Cardinal Health distributed all or a 24 significant portion of these.</p>	<p style="text-align: right;">Page 97</p> <p>1 Abuse of Controlled Prescription Drugs in the 2 U.S., July of 2005? 3 A. I see that's the title of the document. 4 Q. Who does it say it's funded by with an 5 unrestricted grant? 6 A. It says, "Funded by an unrestricted 7 grant from Purdue Pharma LP." 8 Q. And this was a study that was 9 commissioned by this grant by Purdue Pharma. And 10 if you'll turn to page 9. And just let me know 11 when you get there. 12 A. Okay. 13 Q. And on page 9, do you see where it says 14 "The bottom line"?</p> <p>15 A. I see that. 16 Q. Read that to us, if you would, please, 17 or read it to the jury. 18 A. "The bottom line: Our nation is in the 19 throws of an epidemic of controlled prescription 20 drug abuse and addiction. Today 15.1 million 21 people admit abusing prescription drugs, more than 22 the combined number who admit abusing cocaine, 23 hallucinogens, inhalants, and heroin combined." 24 Sorry. I didn't read the numbers. If</p>

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<p>1 you want me to read it --</p> <p>2 Q. No, no, no.</p> <p>3 A. -- again with the numbers, I can.</p> <p>4 Q. That's fine. Thank you.</p> <p>5 Does Cardinal recognize that at this</p> <p>6 time during 2005 that we are in the throws of an</p> <p>7 epidemic of controlled prescription drug abuse?</p> <p>8 MS. MAINIGI: Objection; scope.</p> <p>9 Objection; time period.</p> <p>10 A. Cardinal Health recognizes that there is</p> <p>11 an issue in the country with prescription drug</p> <p>12 abuse. It's not qualified to determine the timing</p> <p>13 of that. That's for the public policymakers, but</p> <p>14 Cardinal Health understands there is a significant</p> <p>15 issue.</p> <p>16 Q. And as it relates to this study, it</p> <p>17 indicates that we're in the throws of it even back</p> <p>18 in 2005, correct?</p> <p>19 MS. MAINIGI: Objection; scope.</p> <p>20 Objection; time period.</p> <p>21 A. That is when this study was -- what this</p> <p>22 study found at the time. Again, Cardinal Health</p> <p>23 isn't making a determination. It's not in the</p> <p>24 position to make the determination, but it is</p>	<p>1 MS. MAINIGI: Objection; form.</p> <p>2 Objection; scope and time period.</p> <p>3 A. That is what the document says, yes.</p> <p>4 Q. And if you scroll on down to the next</p> <p>5 highlighted section. It says, "Children are</p> <p>6 especially at risk. In 2003, 2.3 million teens</p> <p>7 between the ages of 12 and 17 admitted abusing</p> <p>8 prescription drugs in the past year. 83 percent</p> <p>9 of them admitted abusing opioids."</p> <p>10 Do you see that?</p> <p>11 A. I see that language, yes.</p> <p>12 Q. Would you agree if that is true, that</p> <p>13 that is clearly a sign of an epidemic in this</p> <p>14 country?</p> <p>15 MS. MAINIGI: Objection; form, time</p> <p>16 period, and scope.</p> <p>17 A. I agree that it's a finding. I don't</p> <p>18 know what the indicia of an epidemic -- I can't</p> <p>19 say what the indicia of an epidemic are. This is</p> <p>20 a finding that the study made.</p> <p>21 Q. So you can't tell us whether it's an</p> <p>22 epidemic whether 2.3 kids between the ages of 12</p> <p>23 and 17, which, according to this, is 9.3 percent</p> <p>24 of the kids in that age group are abusing</p>
<p>1 aware of it.</p> <p>2 Q. And at this time, at least according to</p> <p>3 the findings in the study -- which you have no</p> <p>4 reason to disagree with, correct?</p> <p>5 MS. MAINIGI: Objection; form.</p> <p>6 Objection; scope. Objection; time period.</p> <p>7 A. I haven't read the whole study, so I</p> <p>8 can't say whether --</p> <p>9 Q. Sure.</p> <p>10 A. -- I agree or disagree.</p> <p>11 Q. But, again, sitting here today, you have</p> <p>12 no basis to disagree with it. I understand you</p> <p>13 haven't read it. I'm not asking you to read it.</p> <p>14 A. I can't say I agree or --</p> <p>15 MS. MAINIGI: Hang on. Objection; form,</p> <p>16 Objection; scope. Objection; time period.</p> <p>17 Go ahead.</p> <p>18 A. I can't say whether I agree or disagree</p> <p>19 with the study. It's a relatively voluminous</p> <p>20 document that I have never seen before.</p> <p>21 Q. Sure. And it finds that today</p> <p>22 15.1 million people admit to prescription drug</p> <p>23 abuse, more than cocaine, hallucinogens,</p> <p>24 inhalants, and heroin combined, right?</p>	<p>1 prescription pain drugs, and you can't tell us</p> <p>2 whether that's an epidemic --</p> <p>3 MS. MAINIGI: Objection.</p> <p>4 Q. -- an issue, a crisis?</p> <p>5 MS. MAINIGI: Excuse me. Objection;</p> <p>6 form, scope, and time period.</p> <p>7 A. Well, now you've introduced new words.</p> <p>8 It's certainly an issue. Again, I'm not -- I'm</p> <p>9 not qualified to opine on what constitutes an</p> <p>10 epidemic.</p> <p>11 Q. You certainly agree it's a bad issue?</p> <p>12 Would you agree with that?</p> <p>13 MS. MAINIGI: Objection; form, scope,</p> <p>14 and time period.</p> <p>15 A. It's an issue to be concerned about.</p> <p>16 Q. It's not something that we want</p> <p>17 happening in this country?</p> <p>18 MS. MAINIGI: Objection; form, scope,</p> <p>19 and time period.</p> <p>20 A. It's not something I would want</p> <p>21 happening in this country.</p> <p>22 Q. Or anywhere else, for that matter,</p> <p>23 correct?</p> <p>24 MS. MAINIGI: Objection; form, scope,</p>

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<p>1 and time period.</p> <p>2 A. No, I wouldn't want this to happen.</p> <p>3 - - -</p> <p>4 (Cardinal-Norris Exhibit 10 marked.)</p> <p>5 - - -</p> <p>6 Q. Okay. Ma'am, I think you have in front</p> <p>7 of you what for the record is Norris 12 and has</p> <p>8 been marked for this deposition Plaintiff's</p> <p>9 Exhibit Number 10; is that correct? It's the</p> <p>10 sticker number 10 on the bottom.</p> <p>11 A. It is.</p> <p>12 Q. All right. And do you know who Glenn</p> <p>13 Fine is?</p> <p>14 A. I don't, other than the document says</p> <p>15 Inspector General.</p> <p>16 Q. Inspector General. Well, I assure you</p> <p>17 that I didn't make that up.</p> <p>18 Okay. And do you see the subject? Read</p> <p>19 the subject to us, if you would, please.</p> <p>20 A. The subject is, "Review of the Drug</p> <p>21 Enforcement Administration's Investigations of the</p> <p>22 Diversion of Controlled Pharmaceuticals, Report</p> <p>23 number I-2002-010."</p> <p>24 Q. And I'll represent to you that this is a</p>	<p>1 investigator positions in fiscal year 2001. The</p> <p>2 authorized diversion investigator positions were</p> <p>3 assigned as follows: 55 at headquarters, 455 at</p> <p>4 domestic field offices, and the remaining 13 at</p> <p>5 overseas offices."</p> <p>6 Q. So that puts somewhere about 510 DEA</p> <p>7 investigators keeping oversight of the controlled</p> <p>8 substances in this country, correct?</p> <p>9 MS. MAINIGI: Objection; time period,</p> <p>10 scope, form.</p> <p>11 A. There were 500 and so in the</p> <p>12 authorized --</p> <p>13 Q. Well, I'm just doing --</p> <p>14 A. -- diversion investigator positions.</p> <p>15 Q. Yeah. I'm doing 55 plus 455 I think is</p> <p>16 510, right?</p> <p>17 A. Sorry.</p> <p>18 MS. MAINIGI: Objection; form.</p> <p>19 A. And then plus 13.</p> <p>20 Q. Yeah, those are overseas.</p> <p>21 A. Yeah. Okay.</p> <p>22 Q. So we can agree that in -- at least</p> <p>23 according to this, the Inspector General report</p> <p>24 done in 2012 -- excuse me -- 2002, approximately</p>
<p>1 report that came out September of 2002. Cardinal</p> <p>2 also recognizes that it's the DEA which regulates</p> <p>3 wholesale distributors; is that correct?</p> <p>4 A. Among other bodies, yes.</p> <p>5 Q. Maybe some state entities and others out</p> <p>6 there, but as far as the federal government, one</p> <p>7 of the main ones is the DEA?</p> <p>8 A. Yes.</p> <p>9 Q. Is it the DEA that generally</p> <p>10 investigates and deals with diversion of</p> <p>11 controlled substances?</p> <p>12 A. I believe so.</p> <p>13 Q. If you'll turn to page 12. When you get</p> <p>14 there, let me know when you're ready.</p> <p>15 A. Okay. Just a second.</p> <p>16 Q. Yes, ma'am.</p> <p>17 A. Okay.</p> <p>18 Q. If you turn to page 12. Do you see the</p> <p>19 highlighted section there?</p> <p>20 A. I do.</p> <p>21 Q. If you'll read that aloud for us,</p> <p>22 please.</p> <p>23 A. "Diversion investigators represented</p> <p>24 10 percent, or 523, of the DEA's 5,124 authorized</p>	<p>1 510 DEA investigators related to diversion of</p> <p>2 controlled substances in this country; is that</p> <p>3 right?</p> <p>4 MS. MAINIGI: Objection; form, scope,</p> <p>5 time period.</p> <p>6 A. I believe that's what this says.</p> <p>7 - - -</p> <p>8 (Cardinal-Norris Exhibit 11 marked.)</p> <p>9 - - -</p> <p>10 Q. Now, let's continue to the next</p> <p>11 document. The next document is going to be</p> <p>12 Plaintiff's Norris 13, which is going to be</p> <p>13 Exhibit 11 to this deposition.</p> <p>14 Now, I'll represent to you that</p> <p>15 Plaintiff's 11 is part of a bigger Congressional</p> <p>16 record. It's about 900 pages. I decided not to</p> <p>17 print all 900 pages for you.</p> <p>18 A. I and our environment appreciate that.</p> <p>19 Q. You are welcome. You are welcome.</p> <p>20 This is a report done by the Honorable</p> <p>21 Rudolph Giuliani before the U.S. Senate Permanent</p> <p>22 Subcommittee on Investigations.</p> <p>23 Do you see that?</p> <p>24 A. I do.</p>

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<p>1 Q. And it's dated June 17th of 2004.</p> <p>2 A. That is the date on the front.</p> <p>3 Q. What is the title of this report?</p> <p>4 A. Buy --</p> <p>5 Q. I'm sorry. Go ahead.</p> <p>6 A. "Buyers Beware: The Dangers of</p> <p>7 Purchasing Pharmaceuticals Over the Internet."</p> <p>8 Q. Now, you're aware that during this time</p> <p>9 frame, that there was a concern about Internet</p> <p>10 pharmacies; is that right?</p> <p>11 MS. MAINIGI: Objection; form, time</p> <p>12 period.</p> <p>13 A. I am aware that Internet pharmacies</p> <p>14 generally during this time period were on folks'</p> <p>15 minds, yes.</p> <p>16 Q. And it was an issue of concern, because</p> <p>17 in 2008, Cardinal paid a \$34 million fine related</p> <p>18 to Internet pharmacies and the distributions</p> <p>19 thereto, correct?</p> <p>20 MS. MAINIGI: Objection; form, scope.</p> <p>21 A. I believe it was an issue of concern</p> <p>22 because we had communications with the DEA as far</p> <p>23 back as, I believe, 2005 regarding Internet</p> <p>24 pharmacies.</p>	<p>1 hired by PhRMA to look into this issue of Canadian</p> <p>2 and foreign medicines, right?</p> <p>3 MS. MAINIGI: Objection; form and</p> <p>4 time -- or excuse me. Objection; scope and time</p> <p>5 period.</p> <p>6 A. I believe that's what the language says.</p> <p>7 Q. And if you'll turn to -- now to page 4.</p> <p>8 A. Can you give me just a second, please?</p> <p>9 Q. Sure. I'm sorry. I apologize.</p> <p>10 A. That's okay. Okay.</p> <p>11 Q. Ma'am, on page 4, read that first</p> <p>12 highlighted sentence for us, please.</p> <p>13 A. "On its face, it appears that the</p> <p>14 distribution chain for prescription medicines in</p> <p>15 the United States is fairly straightforward.</p> <p>16 Manufacturers sell their products to wholesalers</p> <p>17 who in turn sell the products to retail pharmacies</p> <p>18 or stores who in turn dispense medicines to</p> <p>19 patients with prescriptions."</p> <p>20 Q. Okay.</p> <p>21 A. "It is not until the" --</p> <p>22 Q. Hold on. Just the first sentence.</p> <p>23 That's all I asked.</p> <p>24 A. Oh, I'm sorry.</p>
<p style="text-align: center;">Page 107</p> <p>1 Q. And then in 2008, Cardinal entered a</p> <p>2 Memorandum of Agreement with the DEA related to</p> <p>3 distributions pertaining to Internet pharmacies;</p> <p>4 is that correct or incorrect?</p> <p>5 A. Cardinal entered into a Memorandum of</p> <p>6 Agreement in 2008 in which it made no admissions.</p> <p>7 Q. It made no admissions, but the basis of</p> <p>8 the allegations were related to distributions</p> <p>9 related to Internet pharmacies; is that correct or</p> <p>10 incorrect, ma'am?</p> <p>11 A. It is correct that the allegations</p> <p>12 related to Internet pharmacies.</p> <p>13 Q. Okay. And we'll get into more of those</p> <p>14 later, but that's fine.</p> <p>15 If you'll turn to page 2. It says,</p> <p>16 "Giuliani Partners LLC has been retained by the</p> <p>17 Pharmaceutical Research and Manufacturers of</p> <p>18 America (PhRMA) to evaluate the risks, if any,</p> <p>19 associated with the importation of Canadian and</p> <p>20 foreign medicines."</p> <p>21 Do you see that there?</p> <p>22 A. I see that language.</p> <p>23 Q. And that's telling us, is it not, that</p> <p>24 the Giuliani group, for lack of a better term, was</p>	<p style="text-align: center;">Page 109</p> <p>1 Q. And you would agree with us -- or agree</p> <p>2 with the statement that on its face, it's a pretty</p> <p>3 simplistic system; manufacturers to wholesalers,</p> <p>4 then to retail pharmacies or drugstores, correct?</p> <p>5 MS. MAINIGI: Objection; scope.</p> <p>6 A. I would say that is the system. Not</p> <p>7 even on its face, but yes.</p> <p>8 Q. And I was saying it was pretty</p> <p>9 simplistic on its face, correct?</p> <p>10 MS. MAINIGI: Objection; scope.</p> <p>11 A. I think it's -- it is simplistic.</p> <p>12 It's -- that's the --</p> <p>13 Q. Fair enough.</p> <p>14 Then the report goes on to say, "It is</p> <p>15 not until the system is studied in greater detail</p> <p>16 that one begins to appreciate both the</p> <p>17 complexities and the vulnerability of the</p> <p>18 distribution chain and the potential for</p> <p>19 exploitation or abuse."</p> <p>20 Correct?</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 Are you asking her if she agrees or</p> <p>23 whether that's what it says?</p> <p>24 MR. FULLER: Yes, ma'am. I'm asking her</p>

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<p>1 if that's what it says first.</p> <p>2 A. That is what the sentence says, yes.</p> <p>3 Q. And do you agree that the chain is</p> <p>4 subject to potential exploitation and abuse?</p> <p>5 MS. MAINIGI: Objection; scope.</p> <p>6 A. Not necessarily.</p> <p>7 Q. Has Cardinal been fined in the past for</p> <p>8 potentially exploiting or abusing this closed</p> <p>9 system distribution?</p> <p>10 MS. MAINIGI: Objection; form.</p> <p>11 A. Are you referring to the 2005 settlement</p> <p>12 with New York?</p> <p>13 Q. I'm referring to the 2005 settlement</p> <p>14 with New York, the 2008 settlement with the</p> <p>15 Department of Justice, the 2012 settlement with</p> <p>16 the Department of Justice where they admitted</p> <p>17 violations, and the 2016 admission with the State</p> <p>18 of New York related to additional violations.</p> <p>19 A. I'm not --</p> <p>20 MS. MAINIGI: Question?</p> <p>21 Q. Yes, ma'am. You can go ahead.</p> <p>22 MS. MAINIGI: Is there a question</p> <p>23 pending?</p> <p>24 MR. FULLER: Yeah. She asked me what I</p>	<p>1 Q. So Cardinal has -- so Cardinal agrees</p> <p>2 that it has had allegations as well as admitted</p> <p>3 violations related to this vulnerable chain of</p> <p>4 distribution related to controlled substances;</p> <p>5 correct?</p> <p>6 MS. MAINIGI: Objection; form.</p> <p>7 Objection; scope.</p> <p>8 A. Cardinal Health agrees that it made</p> <p>9 payments related to allegations and made a</p> <p>10 settlement payment with regard to specific</p> <p>11 admissions.</p> <p>12 Q. So it made a \$34 million payment related</p> <p>13 to allegations in 2008; is that correct?</p> <p>14 A. It made a \$34 million payment as a</p> <p>15 settlement with the DEA.</p> <p>16 Q. It also made a \$34 million payment</p> <p>17 related to not just allegations but admissions in</p> <p>18 2012, correct?</p> <p>19 A. Cardinal Health made a \$34 million</p> <p>20 payment in 2012 pursuant to a settlement agreement</p> <p>21 in which it made very limited admissions.</p> <p>22 Q. And then in 2016, Cardinal made another</p> <p>23 admission of liability and paid another</p> <p>24 \$10 million to New York, is that correct, for</p>
<p>1 was referring to. I explained what I was</p> <p>2 referring to. And she can answer the question</p> <p>3 that is still pending.</p> <p>4 MS. MAINIGI: Could we have that read</p> <p>5 back, please?</p> <p>6 (Record read back as follows:</p> <p>7 "Question: Has Cardinal been</p> <p>8 fined in the past for potentially</p> <p>9 exploiting or abusing this closed</p> <p>10 system distribution?")</p> <p>11 MS. MAINIGI: Objection; form.</p> <p>12 Objection; scope.</p> <p>13 A. I don't agree with the term</p> <p>14 "exploiting." Cardinal Health has paid fines in</p> <p>15 the past related to particular settlements.</p> <p>16 Q. For settlements for allegations as well</p> <p>17 as admitted violations of these laws related to</p> <p>18 this distribution chain; is that accurate?</p> <p>19 MS. MAINIGI: Objection; form.</p> <p>20 Objection; scope.</p> <p>21 A. We made settlement payments pursuant to</p> <p>22 a settlement agreement with no admissions. We</p> <p>23 made a very limited admission and made a</p> <p>24 settlement payment.</p>	<p>1 similar type of allegations?</p> <p>2 MS. MAINIGI: Objection; form.</p> <p>3 A. Let me clarify because I just misspoke.</p> <p>4 In 2012, no payment was made. In 2016,</p> <p>5 34 million -- a total of \$44 million was paid in</p> <p>6 connection with a very limited settlement and very</p> <p>7 limited admissions contained therein.</p> <p>8 Q. Okay. So, again, just to clean it up,</p> <p>9 Cardinal's admitted violations as well as paid</p> <p>10 fines for allegations related to the -- related to</p> <p>11 allegations that -- well, strike that. Let me do</p> <p>12 it a little easier.</p> <p>13 Cardinal has paid fines related to</p> <p>14 simply allegations of violations to the Controlled</p> <p>15 Substances Act and distribution of controlled</p> <p>16 substances, correct?</p> <p>17 A. No. Cardinal Health paid fines as part</p> <p>18 of a settlement agreement in which it made no</p> <p>19 admissions.</p> <p>20 Q. But those settlement agreements were</p> <p>21 related to allegations of violations of the</p> <p>22 Controlled Substances Act; yes or no?</p> <p>23 MS. MAINIGI: Objection; form.</p> <p>24 A. There were allegations made. Cardinal</p>

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1 Health made no admissions. 2 Q. What were those allegations? 3 MS. MAINIGI: Objection; form. 4 Do you have the agreement so she can 5 look at it? 6 A. In order to be clear, it would be 7 helpful to have the document so we can go through 8 the specific allegations, if that's what we want 9 to do. 10 Q. No, ma'am. I just want a general idea. 11 Do you know any of the allegations? 12 MS. MAINIGI: Objection; form. 13 Q. Did it have to do with the distribution 14 of controlled substances? 15 MS. MAINIGI: Objection; form. 16 A. I believe it had to do with the 17 distribution of controlled substances to certain 18 customers. But, again, without the document in 19 front of me, I am not going to go into the 20 particulars. I want to ensure that I am accurate 21 for the record. 22 Q. And Cardinal also admitted to violations 23 of the Controlled Substances Act and as it relates 24 to this distribution of controlled substances,	1 MR. FULLER: Hey, did you change out my 2 strips? 3 THE COURT REPORTER: I added more. 4 You're on 12. 5 MR. FULLER: Oh, am I? Okay. 6 MS. MAINIGI: Did you get like a speaker 7 over there? 8 MR. FULLER: Yeah, I don't know what it 9 is, but I hear myself talking, and it's weird. 10 MS. MAINIGI: I agree. 11 MS. VELDMAN: Do you want him to lower 12 that? 13 THE VIDEOGRAPHER: I did. It should be 14 better now. 15 MR. FULLER: How about now? Better? 16 MS. MAINIGI: (Indicates affirmatively.) 17 - - - 18 (Cardinal-Norris Exhibit 12 marked.) 19 - - - 20 MR. FULLER: This is Norris 8, it's 21 going to be Plaintiff's Exhibit Number 12. 22 BY MR. FULLER: 23 Q. And, ma'am, have you seen this case 24 before?
1 correct? 2 MS. MAINIGI: Objection; form and scope. 3 A. Again, in the 2016 settlement 4 agreement -- and, again, without having it in 5 front of me and being very clear about the 6 particulars -- there was a settlement made and 7 admission related to certain discrete issues. 8 Q. And let's just make sure the record is 9 clear -- and we'll get it out later. 10 But the Memorandum of Understanding 11 entered and signed off on in 2012 actually 12 contains those admissions, correct? 13 MS. MAINIGI: Objection; form. 14 Objection; scope. 15 A. Without the documents in front of me -- 16 Q. Fair enough. 17 A. I just want to be clear. 18 MR. FULLER: Sure, sure. Let's take 19 another quick break. 20 THE VIDEOGRAPHER: The time is now 21 11:03. Going off the record. 22 (Recess taken.) 23 THE VIDEOGRAPHER: Okay. The time is 24 now 11:22. Back on the record.	1 A. I have. 2 Q. And what case is it? 3 A. Masters Pharmaceutical, Inc. v. DEA. 4 Q. Okay. And you're aware this decision 5 came out in June of last year; is that correct? 6 A. I believe so. 7 Q. And it deals with the Controlled 8 Substances Act and the shipping and reporting 9 requirements; is that correct? 10 A. I believe it mentions the shipping 11 requirement, and the reporting requirement is sort 12 of the central issue. 13 Q. So it discusses both; is that correct? 14 A. It makes reference to both, yes. 15 Q. And if you'll turn to page 7 of the -- 16 now, in -- let's back up for a second. 17 You've had an opportunity to read this 18 opinion before today? 19 A. I have. 20 Q. And you're probably aware -- and tell me 21 if you're not -- that the -- some of the other 22 Defendants in this case, AmerisourceBergen and 23 McKesson, have also designated 30(b) witnesses? 24 A. Yes, I am aware.
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<p>1 Q. Have you reviewed any of their 2 testimony? 3 A. No, I have not. 4 Q. Okay. In preparation for this 5 deposition, did you actually read this opinion? 6 A. I did. 7 Q. Okay. And let me ask you, how much time 8 have you spent preparing for this deposition? 9 A. The last three and a half weeks from 10 the -- beginning the -- Monday the 16th, I believe 11 it was, through today. 12 Q. And I won't say 24 hours a day. Mainly 13 your working hours of your day have been 14 encompassed by preparing for this 30(b) notice -- 15 A. Yes. 16 Q. -- or the notices, correct? 17 A. Yes. I'm sorry. 18 Q. Okay. And tell me -- again, other than 19 counsel, who else have you spoken with related to 20 the preparation for this 30(b) notice? 21 A. I spoke to a variety of individuals at 22 Cardinal Health. I'll try to remember them all. 23 Michael Mone, Todd Cameron, Gilberto Quintero. 24 Q. Hold -- slow down a little bit for me.</p>	<p>1 Q. And what did Todd answer? 2 A. Todd answered that upon the decision, he 3 reviewed the decision, reviewed it with counsel, 4 Cardinal Health counsel. 5 Q. Internal counsel, or you're not sure? 6 A. I'm not positive if it was also outside 7 counsel. We do have internal counsel, so ... and 8 determined that -- 9 MS. MAINIGI: And one thing I will 10 caution you, Ms. Norris, is to not reveal any 11 privileged information that Mr. -- any privileged 12 exchanges Mr. Cameron may have had with counsel. 13 A. And based on those reviews -- 14 MS. MAINIGI: Perhaps you could phrase 15 it after his communications with counsel, what 16 actions he took. 17 A. After Mr. Cameron's review of the case 18 and with counsel, he determined that no changes 19 were needed to our program, that it was in 20 compliance with the decision. 21 Q. All right. So let's look at Masters 22 Pharmaceutical. And if you'll turn to page 7 for 23 me. 24 A. Yes, I'm there.</p>
<p style="text-align: center;">Page 119</p> <p>1 A. Sorry. Michael Mone. 2 Q. Mr. Cameron? 3 A. Todd Cameron. 4 Q. Roberto? 5 A. Gilberto Quintero. 6 Q. Yes, ma'am. 7 A. Danny Roberts. 8 Q. Yes, ma'am. 9 A. Linden Barber. 10 Q. Yes, ma'am. 11 A. Steve Reardon, Sean Callinicos. 12 Q. Spell the last name for me. 13 A. I believe it is C-a-l-l-i-n-c-o-s [sic] 14 or something to that effect. 15 Q. Fair enough. He'll forgive you. 16 A. Just one second. Let me try to 17 remember. I believe that's everybody. I believe 18 that's everyone. If I -- if somebody pops into my 19 brain, I will let you know. 20 Q. And who did you speak -- other than 21 counsel -- with about the Masters Pharmaceutical 22 case? 23 A. Todd Cameron and I -- Todd answered a 24 question regarding it.</p>	<p style="text-align: center;">Page 121</p> <p>1 Q. Okay. And if you will read where it 2 starts, "The security requirement." 3 A. "The 'security requirement' at the heart 4 of the case mandates that distributors 'design and 5 operate a system' to identify 'suspicious orders 6 of controlled substances' and report those to DEA 7 (the Reporting Requirement)." 8 Q. Does Cardinal Health agree that it has a 9 reporting requirement to identify and report 10 suspicious orders of controlled substances? 11 A. Yes. 12 Q. And what is Cardinal's position -- 13 strike that. 14 And Cardinal agrees that has been the 15 obligation since the enactment of the Controlled 16 Substances Act and particularly this regulation in 17 1971, correct? 18 MS. MAINIGI: Objection; scope. 19 Objection; time period. 20 A. Cardinal Health understands its 21 reporting obligation pursuant to the Controlled 22 Substances Act. 23 Q. No, ma'am. That's not my question. 24 Okay. Let me ask it again.</p>

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<p>1 Cardinal agrees that this reporting 2 requirement has been the obligation since the 3 enactment of the regulation that we looked at 4 earlier in 1971 related to suspicious orders, 5 correct?</p> <p>6 MS. MAINIGI: Objection; time period. 7 Objection; scope.</p> <p>8 A. This reporting requirement has existed 9 since 1971 in the statute.</p> <p>10 Q. And the rendition of it that we just 11 read is the obligation that it places on Cardinal, 12 correct?</p> <p>13 MS. MAINIGI: Objection; form.</p> <p>14 A. That is correct, as modified by the DEA 15 guidance we have received over the years, yes.</p> <p>16 Q. Well, now, that's a different 17 qualification now. Okay.</p> <p>18 I believe you've already agreed -- and 19 correct me if I am wrong -- that the reporting 20 requirement requires Cardinal to identify and 21 report suspicious orders of controlled substances; 22 is that accurate?</p> <p>23 A. That is what the regulation requires.</p> <p>24 Q. And that regulation has been in place</p>	<p>1 supply chain and use that information to ferret 2 out potential legal activity."</p> <p>3 MS. MAINIGI: Legally.</p> <p>4 MR. FULLER: I'm sorry. Where did I 5 screw up?</p> <p>6 MS. MAINIGI: You said "legal," not 7 "legally."</p> <p>8 MR. FULLER: Potentially a legal 9 activity. Sorry.</p> <p>10 MS. MAINIGI: "Along the legally 11 regulated supply chain."</p> <p>12 BY MR. FULLER:</p> <p>13 Q. All right. Well, let's try this again. 14 Ms. Norris, the case then reads, "The 15 Reporting Requirement is a relatively modest one. 16 It requires only that a distributor provide basic 17 information about certain orders to the DEA so 18 that DEA investigators in the field can aggregate 19 reports from every point along the legally 20 regulated supply chain and use the information to 21 ferret out potential illegal activity."</p> <p>22 Is that correct?</p> <p>23 A. That is correct.</p> <p>24 Q. And is that Cardinal's understanding of</p>
<p>1 since 1971 and has always required that; is that 2 Cardinal's position?</p> <p>3 MS. MAINIGI: Objection; scope.</p> <p>4 Objection; time period.</p> <p>5 A. The language of the statute has always 6 required that. The DEA's guidance to us on how to 7 implement that has changed over time.</p> <p>8 Q. And I'm not asking about implementation 9 right now.</p> <p>10 A. Okay.</p> <p>11 Q. So let's separate the two, okay?</p> <p>12 A. Okay.</p> <p>13 Q. As far as the reporting requirement 14 itself, has that been an obligation that's been on 15 Cardinal since the regulation was enacted in 1971 16 with the caveat whenever Cardinal started 17 distributing controlled substances?</p> <p>18 A. Yes. Yes.</p> <p>19 Q. Then it reads, "The Reporting 20 Requirement is a relatively modest one that 21 requires only that a distributor provide the basic 22 information about certain orders to DEA so that 23 DEA investigators in the field can aggregate 24 reports from every point along the legal regulated</p>	<p>1 the law?</p> <p>2 MS. MAINIGI: Objection; scope.</p> <p>3 A. I believe so, yes.</p> <p>4 Q. Okay. And let's break it down. It says 5 that it requires a distributor to provide basic 6 information about certain orders to the DEA. And 7 Cardinal would agree that the basic information is 8 at least to provide the order that's being 9 submitted that qualifies as suspicious, correct?</p> <p>10 MS. MAINIGI: Objection; scope.</p> <p>11 A. Generally, yes.</p> <p>12 Q. Okay. "And this is just a further 13 explanation of the reporting requirement we just 14 talked about; therefore, it applies all the way 15 back to 1971 when the suspicious order regulation 16 was enacted."</p> <p>17 Does Cardinal agree with that?</p> <p>18 MS. MAINIGI: Objection; scope.</p> <p>19 Objection; time period.</p> <p>20 A. I can't opine on that. This feels like 21 more commentary about what they thought it meant 22 in the case that's then referenced there.</p> <p>23 Q. So does -- I'm sorry. Go ahead.</p> <p>24 A. But the reporting requirement went back</p>

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<p>1 to 1971.</p> <p>2 Q. So as it relates to what you've</p> <p>3 qualified as commentary, does Cardinal agree or</p> <p>4 disagree with that, that that is their obligation?</p> <p>5 MS. MAINIGI: Objection; form.</p> <p>6 Objection; scope. Objection; time period.</p> <p>7 A. I believe that that is Cardinal's</p> <p>8 obligation.</p> <p>9 Q. Now, let's go further down. Let's go</p> <p>10 down to the next sentence. "Once a distributor</p> <p>11 has reported a suspicious order, it must make one</p> <p>12 of two choices: Decline to ship the order or</p> <p>13 conduct some due diligence; and if it is able to</p> <p>14 determine that the order is not likely to be</p> <p>15 diverted into legal channels, ship the order," and</p> <p>16 then in parentheses "Shipping requirement."</p> <p>17 Does Cardinal agree that based on this</p> <p>18 case, Masters Pharmaceutical, as of June of last</p> <p>19 year, Cardinal now has a shipping requirement?</p> <p>20 MS. MAINIGI: Objection; scope.</p> <p>21 A. In 2017, did Cardinal Health have a</p> <p>22 shipping requirement?</p> <p>23 Q. Yes, ma'am.</p> <p>24 A. Yes.</p>	<p>1 A. Yes.</p> <p>2 Q. The other alternative is to conduct due</p> <p>3 diligence, and if it's able to -- or if Cardinal</p> <p>4 is able to determine that the order is not likely</p> <p>5 to be diverted into legal channels, then ship the</p> <p>6 order? Is that Cardinal's understanding?</p> <p>7 A. Correct.</p> <p>8 Q. Prior to the enactment or the rendering</p> <p>9 of this Masters Pharmaceutical opinion, when you</p> <p>10 mentioned there was a shipping requirement</p> <p>11 Cardinal believes it had, how far back did that</p> <p>12 same shipping requirement go?</p> <p>13 A. Back to approximately 2007.</p> <p>14 Q. We're going to baby step this, okay? So</p> <p>15 bear with me.</p> <p>16 A. Okay.</p> <p>17 Q. So from approximately some point in</p> <p>18 2007, Cardinal believes it had the shipping</p> <p>19 requirement that's set out in the Masters</p> <p>20 Pharmaceutical case applicable to them?</p> <p>21 A. Approximately, because obviously I think</p> <p>22 we'll get there. The Dear Registrant letters</p> <p>23 started coming out. So approximately that time</p> <p>24 period.</p>
<p style="text-align: center;">Page 127</p> <p>1 Q. Prior to 2000- -- prior to the rendering</p> <p>2 of the Masters Pharmaceutical case, did Cardinal</p> <p>3 have a shipping requirement?</p> <p>4 A. Yes.</p> <p>5 Q. How far back does Cardinal take the</p> <p>6 position that this shipping -- strike that.</p> <p>7 Prior to 2017 and the rendering of this</p> <p>8 Masters Pharmaceutical opinion, does Cardinal</p> <p>9 believe its shipping requirement was the same as</p> <p>10 outlined here in the Masters Pharmaceutical case?</p> <p>11 A. Generally, yes.</p> <p>12 Q. Okay. So as it relates to -- and we're</p> <p>13 not going to talk necessarily about how far back</p> <p>14 it goes yet.</p> <p>15 So we have an understanding, the</p> <p>16 shipping requirement gives you two choices,</p> <p>17 correct?</p> <p>18 A. As it's laid out here, yes.</p> <p>19 Q. And you agree -- Cardinal agrees with</p> <p>20 that, correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. The first choice is you can</p> <p>23 decline the ship? You can cut the order as</p> <p>24 Cardinal uses the phrase, correct?</p>	<p style="text-align: center;">Page 129</p> <p>1 Q. So since 2007 or approximately that time</p> <p>2 period, Cardinal has not shipped suspicious</p> <p>3 orders, correct?</p> <p>4 A. Since 2007, Cardinal Health has not</p> <p>5 shipped an order that it has reported as</p> <p>6 suspicious to the DEA.</p> <p>7 Q. And since 2007, Cardinal has not shipped</p> <p>8 a suspicious order that it hasn't determined --</p> <p>9 that it hasn't done the due diligence on to</p> <p>10 determine it's not going to be diverted, correct?</p> <p>11 MS. MAINIGI: Objection; form.</p> <p>12 A. Since approximately 2007, Cardinal</p> <p>13 Health has not shipped an order it has reported as</p> <p>14 suspicious to the DEA.</p> <p>15 Q. Okay. So how many orders since 2007 --</p> <p>16 how many suspicious orders has Cardinal shipped</p> <p>17 that it failed to report to the DEA --</p> <p>18 MS. MAINIGI: Objection; form.</p> <p>19 Q. -- since 2007?</p> <p>20 A. None to Cardinal Health's knowledge.</p> <p>21 Q. Prior to 2007, was Cardinal shipping</p> <p>22 suspicious orders?</p> <p>23 A. Prior to its understanding from the DEA</p> <p>24 of the obligation, the change, the sea change in</p>

<p style="text-align: right;">Page 130</p> <p>1 the obligation to suddenly -- suddenly maybe is 2 the wrong word -- to not -- 3 Q. I mean, suddenly is good for you. 4 A. -- to not ship pursuant to the guidance 5 by the DEA, it was a report only period. Cardinal 6 Health made the reports as required by the DEA. 7 Q. So prior to 2007, Cardinal was shipping 8 suspicious orders? Well, strike that. Let me 9 back up.</p> <p>10 Prior to this approximate time frame of 11 2007, which we have yet to nail down, Cardinal was 12 shipping orders that it reported as suspicious?</p> <p>13 A. During the time period prior to 2007, 14 Cardinal Health's obligation was to report only.</p> <p>15 Q. Yes, ma'am. I got that. But my 16 question is, prior to this approximate 2007 time 17 frame, Cardinal was shipping suspicious orders 18 after it reported -- well, strike that. Let me 19 ask it differently.</p> <p>20 Prior to 2007, do you know whether 21 Cardinal was reporting and then shipping 22 suspicious orders or shipping suspicious orders 23 and then reporting?</p> <p>24 MS. MAINIGI: Objection; form.</p>	<p style="text-align: right;">Page 132</p> <p>1 comply with that required the reporting of 2 suspicious orders, correct? 3 A. Cardinal understood the language of the 4 statute -- 5 Q. Hold on. Hold on. I'm not -- 6 MS. MAINIGI: Let her finish. Let her 7 finish. 8 MR. FULLER: Okay. 9 BY MR. FULLER: 10 Q. Sorry. Go ahead. 11 A. Cardinal Health understood the language 12 of the statute and the guidance we received from 13 the DEA and was making the reports accordingly. 14 Q. So my question is, did Cardinal file 15 suspicious order reports prior to approximately 16 2007? 17 MS. MAINIGI: Objection; form. 18 A. I don't know that that's what they were 19 calling them at that time. Again, we filed per 20 the DEA's guidance ingredient limit reports, 21 excessive order reports. 22 Q. So prior to 2007 -- so prior to 2007, 23 Cardinal was knowingly shipping orders that it 24 knew qualified as suspicious under the regulation,</p>
<p style="text-align: right;">Page 131</p> <p>1 Objection; time period. 2 Go ahead. 3 A. In accordance from the guidance we 4 received from the DEA, Cardinal Health was making 5 the reports as required by the DEA, the ingredient 6 limit reports and the excessive order reports, and 7 it was shipping orders in accordance with the 8 guidelines from the DEA. If pursuant to one of 9 those excessive order reports the DEA said "Do not 10 ship," we did not ship. 11 Q. You mentioned excessive order reports 12 and some other type of reports. 13 A. Ingredient limit reports. 14 Q. Was Cardinal actually reporting 15 suspicious orders prior to this time period in 16 2007? 17 MS. MAINIGI: Objection; time period. 18 Go ahead. 19 A. As required by the DEA, we were 20 submitting the ingredient limit reports pursuant 21 to the guidance we received, as well as the 22 excessive order reports. 23 Q. But during this time prior to 2007, 24 Cardinal knew that it had a rule that it had to</p>	<p style="text-align: right;">Page 133</p> <p>1 correct? 2 MS. MAINIGI: Objection; form. 3 Objection; time period. 4 A. No, not necessarily. 5 Q. What you've told us -- and see if I 6 understand it correctly. 7 You told us that prior to 2007, Cardinal 8 only had a reporting requirement according to 9 Cardinal, correct? 10 A. According to Cardinal and others, yes. 11 Q. And, therefore, Cardinal believes it was 12 doing what it was supposed to do in reporting 13 suspicious orders, but it was still shipping 14 suspicious orders, correct? 15 A. Cardinal Health was doing what it was 16 directed to do by the DEA. 17 Q. So I'm just asking, during this time 18 frame prior to 2007, did Cardinal report orders as 19 potentially suspicious or suspicious orders and 20 then still send the shipments out? 21 MS. MAINIGI: Objection; time period. 22 A. Yes. That is the direction we received 23 from the DEA. We made the reports as required, 24 and there was not a shipping requirement.</p>

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<p>1 Q. Now, just so I understand, what is an --</p> <p>2 you said "an excessive order report." What is</p> <p>3 that?</p> <p>4 A. Within the distribution centers, the</p> <p>5 folks that are picking the orders have the ability</p> <p>6 to identify an order of a new rule, size, pattern,</p> <p>7 or frequency, and raise their hand, so to speak,</p> <p>8 to identify that order, and in doing so, during</p> <p>9 this time period, we were submitting those to the</p> <p>10 DEA as excessive order reports.</p> <p>11 Q. Would they be submitted order by order,</p> <p>12 or was it a compilation of things that occurred</p> <p>13 over a period of time?</p> <p>14 A. My understanding is order by order.</p> <p>15 Q. And what's an ingredient limit report?</p> <p>16 A. An ingredient limit report is the report</p> <p>17 that was required pursuant to the 1998 DEA report</p> <p>18 to, I believe, the Attorney General. It included</p> <p>19 the algorithm for certain pharmaceuticals, and we</p> <p>20 on a monthly basis provided the report of the</p> <p>21 customers who had exceeded the designated amount</p> <p>22 that you achieve pursuant to doing the algorithm,</p> <p>23 the math problem.</p> <p>24 Q. And that was done by ingredient,</p>	<p>1 BY MR. FULLER:</p> <p>2 Q. Would you agree with that?</p> <p>3 A. I would agree with that.</p> <p>4 Q. Okay. Now, conversely, when we say</p> <p>5 "reporting requirement," we don't mean not report?</p> <p>6 A. Correct.</p> <p>7 Q. Okay.</p> <p>8 A. We can blame Masters.</p> <p>9 Q. Tell me what Cardinal's position --</p> <p>10 strike that.</p> <p>11 So it's Cardinal's position that the</p> <p>12 first time they were informed of a potential</p> <p>13 shipping requirement was in Rannazzisi's 2006</p> <p>14 letter that was sent to all the distributors in</p> <p>15 the industry?</p> <p>16 A. Yes.</p> <p>17 Q. Cardinal also had meetings with the DEA</p> <p>18 around this time frame as well, correct?</p> <p>19 A. Yes.</p> <p>20 Q. When is the first meeting that Cardinal</p> <p>21 had with the DEA?</p> <p>22 MS. MAINIGI: Objection to form.</p> <p>23 Starting when?</p> <p>24 Q. Any time prior to this that you're aware</p>
<p>1 correct?</p> <p>2 A. I believe so. I'm not -- I'm actually</p> <p>3 not positive.</p> <p>4 Q. So does Cardinal believe -- well, let's</p> <p>5 try to nail down this time frame in 2007 first,</p> <p>6 okay?</p> <p>7 A. Okay.</p> <p>8 Q. What is its -- what is Cardinal's</p> <p>9 position as to -- strike that.</p> <p>10 Is it Cardinal's position or</p> <p>11 understanding that the initial Rannazzisi letter</p> <p>12 in 2006 informed them of a shipping requirement as</p> <p>13 we've described it?</p> <p>14 A. Yes. That was the first communication</p> <p>15 Cardinal received regarding this sea change of</p> <p>16 adding a shipping requirement to the obligations.</p> <p>17 MS. MAINIGI: Can I just add a</p> <p>18 clarification, because when you see the phrase</p> <p>19 "shipping requirement," it suggests you should</p> <p>20 ship. But by "shipping requirement," you're both</p> <p>21 saying "do not ship;" is that fair?</p> <p>22 MR. FULLER: I think that's fair. Thank</p> <p>23 you.</p> <p>24</p>	<p>1 of.</p> <p>2 A. Prior to the receipt of the first</p> <p>3 Rannazzisi letter?</p> <p>4 Q. Yes, ma'am.</p> <p>5 A. I know we had a meeting with the DEA</p> <p>6 regarding Internet pharmacies in 2005, but not</p> <p>7 with -- not the subject of what ultimately came</p> <p>8 out in the Rannazzisi letter.</p> <p>9 Q. Well, then let's backstep that. There</p> <p>10 was actually a meeting with Cardinal and the DEA</p> <p>11 in approximately August of 2005; is that correct?</p> <p>12 A. I believe that's the time frame, yes.</p> <p>13 Q. And this meeting included concerns</p> <p>14 related to the Controlled Substances Act and the</p> <p>15 distribution of controlled substances, correct?</p> <p>16 MS. MAINIGI: Objection; time frame.</p> <p>17 A. I know the meeting -- the topic of the</p> <p>18 meeting was Internet pharmacies. I don't know the</p> <p>19 answer to that question.</p> <p>20 Q. Ma'am, you referenced the meeting. The</p> <p>21 topic was Internet pharmacies, but it also dealt</p> <p>22 with the Controlled Substances Act and</p> <p>23 distribution of controlled substances, correct?</p> <p>24 MS. MAINIGI: Objection; time frame and</p>

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<p>1 just continuing objection on --</p> <p>2 MR. FULLER: Sure.</p> <p>3 MS. MAINIGI: -- this 2005 meeting.</p> <p>4 MR. FULLER: Right, right.</p> <p>5 MS. MAINIGI: I won't put that objection</p> <p>6 in again for this.</p> <p>7 MR. FULLER: And "form" is fine. I get</p> <p>8 what you're preserving.</p> <p>9 A. I'm sorry. Repeat the question.</p> <p>10 Q. Sure.</p> <p>11 A. I apologize.</p> <p>12 Q. You referenced the meeting. The topic</p> <p>13 was Internet pharmacies, but it also dealt with</p> <p>14 the Controlled Substances Act and the distribution</p> <p>15 of controlled substances, correct --</p> <p>16 A. I don't --</p> <p>17 Q. -- or do you know?</p> <p>18 A. I don't recall. I saw a reference to</p> <p>19 that meeting. I went over that in my preparation,</p> <p>20 but I can't recall whether that was -- those were</p> <p>21 specific topics. I know it was a meeting</p> <p>22 regarding Internet pharmacies.</p> <p>23 Q. Was there any more communication with</p> <p>24 the DEA that Cardinal had between August of 2005</p>	<p>1 Again, I can't presently speak to every</p> <p>2 single communication that Cardinal Health had.</p> <p>3 Q. So is it Cardinal's position -- here.</p> <p>4 We keep talking about it, so I'm just going to</p> <p>5 give it to you.</p> <p>6 A. That would be great.</p> <p>7 MR. FULLER: There you go, Counsel.</p> <p>8 MS. MAINIGI: Thank you.</p> <p>9 MR. FULLER: Sure. And it's Norris 14,</p> <p>10 and it's going to be Plaintiff's Exhibit 13 for</p> <p>11 purposes of this deposition. And for the record</p> <p>12 and everybody listening in, now we finally have</p> <p>13 something with a Bates number on it, and it's</p> <p>14 CAH_MDL_PRIORPROD_DEA07_00837645.</p> <p>15 - - -</p> <p>16 (Cardinal-Norris Exhibit 13 marked.)</p> <p>17 - - -</p> <p>18 BY MR. FULLER:</p> <p>19 Q. And, Ms. Norris, this is, I believe, a</p> <p>20 document that was provided to us by your counsel.</p> <p>21 Do you see that in front of you?</p> <p>22 A. I see the document, yes.</p> <p>23 Q. Are you aware that this was a letter</p> <p>24 that the DEA did send back in 2006, and</p>
<p style="text-align: center;">Page 139</p> <p>1 and the receipt of the first Rannazzisi letter?</p> <p>2 And I believe it's September of 2006.</p> <p>3 A. I believe that's approximately correct.</p> <p>4 I don't -- I am not aware of any specific</p> <p>5 communications, but Cardinal Health communicates</p> <p>6 regularly with the DEA.</p> <p>7 Q. Was there any --</p> <p>8 A. I can't say right now what specific</p> <p>9 communications or timing of the communications</p> <p>10 there might have been.</p> <p>11 Q. Was there any further communication</p> <p>12 between Cardinal Health and the DEA between</p> <p>13 September of '06 and December of '07 when the</p> <p>14 second Rannazzisi letter came out?</p> <p>15 A. The second being the third, right?</p> <p>16 Q. Technically, yes, ma'am.</p> <p>17 A. Yes.</p> <p>18 Q. And what was that?</p> <p>19 A. I don't know the specifics of the</p> <p>20 communication, but I know that I was told by Steve</p> <p>21 Reardon there were communications with the DEA</p> <p>22 regarding the Rannazzisi letter, as well as</p> <p>23 attendance at a meeting in, I believe it was the</p> <p>24 fall of 2007, September maybe, with the DEA.</p>	<p style="text-align: center;">Page 141</p> <p>1 specifically September 27 -- God bless you --</p> <p>2 September 27, 2006 to Cardinal Health.</p> <p>3 A. Yes.</p> <p>4 Q. And in your preparation for this</p> <p>5 deposition, you had this document obtained and</p> <p>6 you've reviewed this document; is that correct?</p> <p>7 A. I have.</p> <p>8 Q. And does this copy of it appear to be</p> <p>9 the same as the copy that you pulled from</p> <p>10 Cardinal's files to review?</p> <p>11 A. Yes. It appears to be the document I've</p> <p>12 reviewed.</p> <p>13 Q. Now, you mentioned earlier just briefly</p> <p>14 that there was a second and a third -- well, yeah,</p> <p>15 a second and a third letter, right?</p> <p>16 A. Yes.</p> <p>17 Q. And that's because in the early part of</p> <p>18 2007, the DEA sent another copy of this letter out</p> <p>19 to all the wholesale distributors; is that</p> <p>20 correct?</p> <p>21 A. That is what I understand, yes.</p> <p>22 Q. And you believe that letter to be a</p> <p>23 pretty much identical copy of this one; is that</p> <p>24 right?</p>

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<p>1 A. Yes.</p> <p>2 Q. And then when I said the second DEA</p> <p>3 letter, that is my fault, and I apologize. But it</p> <p>4 was actually -- you're correct -- the third that</p> <p>5 was sent at the end of 2007.</p> <p>6 Is that your understanding?</p> <p>7 A. That is my understanding.</p> <p>8 Q. Okay. Fair enough. I apologize for</p> <p>9 that confusion. Completely on me.</p> <p>10 So, ma'am, read the first two sentences</p> <p>11 of this letter from the DEA to Cardinal Health.</p> <p>12 A. "This letter is being sent to every</p> <p>13 commercial entity in the United States registered</p> <p>14 with the Drug Enforcement Administration to</p> <p>15 distribute controlled substances. The purpose of</p> <p>16 this letter is to reiterate the responsibilities</p> <p>17 of controlled substance distributors in view of</p> <p>18 the prescription drug abuse problem our nation</p> <p>19 currently faces."</p> <p>20 Q. Does Cardinal recognize that at this</p> <p>21 point of time in 2006, that we did have a</p> <p>22 prescription drug abuse problem in our nation?</p> <p>23 MS. MAINIGI: Objection; scope.</p> <p>24 A. Yes.</p>	<p>1 fair?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Go ahead, ma'am.</p> <p>4 A. "The CSA was designed by Congress to</p> <p>5 combat diversion by providing for a closed system</p> <p>6 of drug distribution in which all legitimate</p> <p>7 handlers of controlled substances must obtain a</p> <p>8 DEA registration, and as a condition of</p> <p>9 maintaining such registration, must take</p> <p>10 reasonable steps to ensure that their registration</p> <p>11 is not being utilized as a source of diversion."</p> <p>12 Q. Does Cardinal accept the DEA's statement</p> <p>13 that the CSA was designed by Congress to combat</p> <p>14 diversion?</p> <p>15 MS. MAINIGI: Objection; form.</p> <p>16 Objection; scope.</p> <p>17 A. I agree that that's what it says there.</p> <p>18 Q. And, yes, ma'am, I get that that's what</p> <p>19 it says there. But does Cardinal agree that that</p> <p>20 was the design of the CSA, was to combat</p> <p>21 diversion?</p> <p>22 MS. MAINIGI: Objection; form.</p> <p>23 Objection; scope. Objection; time period.</p> <p>24 A. I'm answering in my personal capacity.</p>
<p>1 Q. And Cardinal also recognizes that it is</p> <p>2 one of a multitude of players in this distribution</p> <p>3 channel of prescription drugs, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And that -- strike that.</p> <p>6 If you'll go down to the Background</p> <p>7 section. Do you see that section next?</p> <p>8 A. Yes.</p> <p>9 Q. And if you'll read that first sentence,</p> <p>10 "As each of you are -- or is undoubtedly aware."</p> <p>11 A. "As each of you is undoubtedly aware,</p> <p>12 the abuse (nonmedical use) of controlled</p> <p>13 prescription drugs is a serious and growing health</p> <p>14 problem in this country."</p> <p>15 Q. Does Cardinal accept and adopt that</p> <p>16 statement during this time frame, or does Cardinal</p> <p>17 reject that statement?</p> <p>18 MS. MAINIGI: Objection; scope.</p> <p>19 Objection; form.</p> <p>20 A. I think it's a fair statement.</p> <p>21 Q. If you'll go down to the next paragraph</p> <p>22 and read that next sentence there for me, please,</p> <p>23 "The CSA was." And so we're clear when we say</p> <p>24 "CSA," we mean Controlled Substances Act; is that</p>	<p>1 That's what it says there.</p> <p>2 Q. Well, you'll notice under C, it asks for</p> <p>3 the past and present interpretation, compliance,</p> <p>4 and agreement and/or disagreement with the Dear</p> <p>5 Registrant letters from the DEA. And this is a</p> <p>6 Dear Registrant letter from the DEA. We can agree</p> <p>7 with that, correct?</p> <p>8 A. Correct.</p> <p>9 Q. So I want to know if Cardinal agrees --</p> <p>10 not in your personal capacity. I want to know if</p> <p>11 Cardinal agrees with the statement that "The CSA</p> <p>12 was designed by Congress to combat diversion."</p> <p>13 MS. MAINIGI: So I'm just going to note,</p> <p>14 since you read the particular topic, Mike, that</p> <p>15 you think is applicable here --</p> <p>16 MR. FULLER: Yes, ma'am.</p> <p>17 MS. MAINIGI: -- it says -- the rest of</p> <p>18 the topic reads, "Disagreement" -- picking up</p> <p>19 where you were, "Disagreement with the Dear</p> <p>20 Registrant letters from the DEA outlining the</p> <p>21 duties imposed on a distributor under federal</p> <p>22 law." The topic is not "let us know if every</p> <p>23 single sentence in the Dear Registrant letter is a</p> <p>24 sentence you agreed with."</p>

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<p>1 MR. LEVIN: And "object to form" is 2 fine, Counsel. Please. 3 MS. MAINIGI: Thank you. 4 BY MR. FULLER: 5 Q. Does Cardinal agree or disagree that the 6 CSA was designed to combat diversion? 7 MS. MAINIGI: Objection; time period, 8 Objection; scope. Objection; form. 9 A. I agree that that's the statement that's 10 made here. 11 Q. Do you agree that that was the design 12 behind the CSA -- 13 MS. MAINIGI: Same. 14 Q. -- or do you disagree -- 15 MS. MAINIGI: Excuse me. Same -- 16 Q. -- or do you not know? 17 MR. FULLER: Sorry. 18 MS. MAINIGI: Same objections. 19 A. I can't speak to all of what is behind 20 the design of the CSA. I can say that that is 21 what this sentence says. 22 Q. So sitting here today, Cardinal doesn't 23 know what the design or the purpose behind the CSA 24 was, correct?</p>	<p>1 Q. Does that mean prevent diversion? 2 MS. MAINIGI: Objection; form and scope. 3 A. It means maintain effective controls 4 against diversion. 5 Q. Against would be preventing, right? 6 MS. MAINIGI: Objection; scope. 7 A. Generally, yes. 8 Q. I mean, it's sort of like going back to 9 the shipping requirement. It's really a not 10 shipping requirement, right? 11 A. Correct. 12 Q. Okay. Does Cardinal or is Cardinal -- 13 strike that. 14 Is Cardinal required to take reasonable 15 steps to ensure that the registration isn't being 16 utilized as a source of diversion? 17 A. I don't recall that being anywhere in 18 the statute or the regulations. Cardinal Health's 19 obligation is to comply with the statute, 20 regulations, and guidance provided by the DEA. 21 Q. So -- and I understand your response, 22 but now I'm asking you whether Cardinal has to 23 take reasonable steps to ensure that the 24 registration is not being utilized as a source of</p>
<p>1 MS. MAINIGI: Objection; time period. 2 Objection; scope. 3 A. That's not what I said. I said -- 4 Q. So does Cardinal do know? 5 MS. MAINIGI: Same objections. 6 A. I said I can't -- I can't opine on the 7 entire thought process behind the CSA. I can tell 8 you that is what that sentence says. 9 Q. Okay. But we know from reading earlier 10 that Congress has said that the design is to 11 prevent diversion, correct? 12 MS. MAINIGI: Do you want to refer her 13 to a particular exhibit? 14 MR. FULLER: She's welcome to flip 15 through. 16 A. Part of the design is to ensure that 17 there are effective controls against diversion. 18 Q. To prevent diversion, right? 19 A. To maintain -- 20 MS. MAINIGI: Objection; form. 21 Q. I'm sorry? 22 MS. MAINIGI: Objection; scope. 23 A. To maintain effective controls against 24 diversion, yes.</p>	<p>1 diversion. 2 A. That is a statement in this letter. 3 Q. And Cardinal either agrees, the answer 4 is yes; or disagrees, the answer is no; or I don't 5 know? 6 MS. MAINIGI: Objection. 7 Q. So let me -- 8 MR. FULLER: I'm sorry. Go ahead. 9 MS. MAINIGI: No. Go ahead. 10 Are you done with your question? 11 MR. FULLER: No. I was going to ask a 12 cleaner one, which I imagine is what you wanted. 13 BY MR. FULLER: 14 Q. Ms. Norris, speaking on behalf of 15 Cardinal, does Cardinal agree that it has to take 16 reasonable steps to ensure that their registration 17 is not being utilized as a source of diversion? 18 A. Cardinal Health has an obligation to 19 comply with the statute, the regulations, the law 20 that applies, and the guidance provided by the 21 DEA. 22 Q. And does that mean they have to take 23 steps to prevent their registration from being 24 used as a source of diversion; yes or no?</p>

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<p>1 A. That is guidance provided by the DEA.</p> <p>2 Q. So being that this letter is guidance</p> <p>3 provided by the DEA, then the answer is yes,</p> <p>4 Cardinal has to take steps to prevent its</p> <p>5 registration from being used as a source of</p> <p>6 diversion, correct?</p> <p>7 A. Generally, yes.</p> <p>8 Q. Generally, yes, or yes?</p> <p>9 A. Generally, yes, in accordance with the</p> <p>10 statute, the regulations, and the guidance</p> <p>11 provided by the DEA.</p> <p>12 Q. Well, you've told me that several times.</p> <p>13 And then I asked the follow-up, being that this</p> <p>14 letter is guidance from the DEA, you would agree</p> <p>15 with that, correct?</p> <p>16 A. Um-hmm, yes.</p> <p>17 Q. Cardinal agrees that this September 27,</p> <p>18 2006 letter provided by Rannazzisi, who was at the</p> <p>19 DEA, is providing guidance to the wholesale</p> <p>20 distributor industry, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. And as part of that guidance,</p> <p>23 he's telling wholesale distributors, including</p> <p>24 Cardinal, that they need to take steps to prevent</p>	<p>1 vigilant in deciding whether a prospective</p> <p>2 customer can be trusted to deliver controlled</p> <p>3 substances only for lawful purposes; correct?</p> <p>4 MS. MAINIGI: Objection; form.</p> <p>5 A. In maintaining effective controls</p> <p>6 against diversion, yes.</p> <p>7 Q. So if Cardinal has a basis or a reason</p> <p>8 for knowing a customer of theirs, a drugstore or</p> <p>9 pharmacy, may be obtaining controlled substances</p> <p>10 for an unlawful purpose, Cardinal has an</p> <p>11 obligation not to participate in that scheme,</p> <p>12 correct?</p> <p>13 MS. MAINIGI: Objection; form.</p> <p>14 A. If Cardinal Health is aware that a</p> <p>15 customer is doing that, Cardinal Health would not</p> <p>16 sell to that customer.</p> <p>17 Q. Now, let me ask you, as it relates to</p> <p>18 Cardinal's obligation, does Cardinal actually have</p> <p>19 to be aware of actual diversion by the drugstore</p> <p>20 or pharmacy or the potential for diversion by that</p> <p>21 drugstore or pharmacy?</p> <p>22 MS. MAINIGI: Objection; scope.</p> <p>23 A. What obligation are you referring to?</p> <p>24 Q. The obligation where it's going to sell</p>
<p style="text-align: center;">Page 151</p> <p>1 the registration from being used as a source of</p> <p>2 diversion; yes or no?</p> <p>3 A. Yes, that is the guidance provided in</p> <p>4 this letter.</p> <p>5 Q. Fair enough. Thank you. Read the rest</p> <p>6 of that paragraph for me, please.</p> <p>7 A. "Distributors are, of course, one of the</p> <p>8 key components in the distribution chain. If the</p> <p>9 closed system is to function properly, as Congress</p> <p>10 envisioned, distributors must be vigilant in</p> <p>11 deciding whether a prospective customer can be</p> <p>12 trusted to deliver controlled substances only for</p> <p>13 lawful purposes."</p> <p>14 "This responsibility is critical as</p> <p>15 Congress has expressly declared that the illegal</p> <p>16 distribution of controlled substances has a</p> <p>17 substantial and detrimental effect on the health</p> <p>18 and general welfare of the American people."</p> <p>19 Q. And Cardinal agrees and accepts that</p> <p>20 distributors are one of the key components in the</p> <p>21 distribution chain; is that right?</p> <p>22 MS. MAINIGI: Objection; form.</p> <p>23 A. Yes.</p> <p>24 Q. And that the distributors must be</p>	<p style="text-align: center;">Page 153</p> <p>1 those drugs to that pharmacy.</p> <p>2 MS. MAINIGI: Objection; form and scope.</p> <p>3 A. Under the statute, Cardinal has an</p> <p>4 obligation to identify and report suspicious</p> <p>5 orders, and then under the additional guidance</p> <p>6 provided by the DEA, the further obligation to not</p> <p>7 ship those orders that it has reported as</p> <p>8 suspicious.</p> <p>9 Q. And as we talked earlier, Cardinal has</p> <p>10 an affirmative obligation to maintain effective</p> <p>11 controls against diversion, correct?</p> <p>12 A. Correct.</p> <p>13 Q. That's separate from the suspicious</p> <p>14 order regulation; isn't that true?</p> <p>15 A. Correct.</p> <p>16 Q. So in order to --</p> <p>17 A. Not completely separate, but yes.</p> <p>18 Q. It's in the Controlled Substances Act, I</p> <p>19 will give you that.</p> <p>20 A. Yes.</p> <p>21 Q. And the Controlled Substances Act</p> <p>22 spawned the regulation created by the DEA for</p> <p>23 suspicious orders, fair enough?</p> <p>24 A. Yes.</p>

<p style="text-align: right;">Page 154</p> <p>1 Q. Okay. So the requirement to maintain 2 effective controls against diversion means we have 3 to try to prevent diversion; is that correct? 4 MS. MAINIGI: Objection; scope. 5 Objection; form.</p> <p>6 A. Cardinal Health has an obligation to 7 maintain those effective controls against 8 diversion.</p> <p>9 Q. And maintaining effective controls 10 against diversion is not shipping requirements, 11 shipping pills, shipping opioids to entities that 12 we suspect may be diverting them, correct?</p> <p>13 MS. MAINIGI: Objection; form.</p> <p>14 A. If we have a reasonable belief, if we 15 know they are diverting, then we do not ship to 16 them.</p> <p>17 Q. Now, let's break that answer down, 18 because that's two. Is it a reasonable belief or 19 we know they're diverting? Do you actually have 20 to know they're diverting before you hold a 21 shipment --</p> <p>22 MS. MAINIGI: Objection; form.</p> <p>23 Q. -- at least according to Cardinal?</p> <p>24 MS. MAINIGI: Objection; form.</p>	<p style="text-align: right;">Page 156</p> <p>1 A. If they pose an unreasonable risk of 2 diversion or we know they are diverting, Cardinal 3 Health will not sell to them.</p> <p>4 Q. What is an unreasonable risk of 5 diversion? It's basically they might be 6 diverting, right?</p> <p>7 MS. MAINIGI: Objection; form.</p> <p>8 A. We have reason to believe, based on the 9 totality of circumstances, they present a risk of 10 diversion, an unreasonable risk of diversion.</p> <p>11 Q. So -- and that's what I'm trying to find 12 out, what that unreasonable qualification is 13 there.</p> <p>14 MS. MAINIGI: Is that a question?</p> <p>15 MR. FULLER: No. It's a statement.</p> <p>16 We're going to jump around a little bit, and I 17 apologize.</p> <p>18 - - -</p> <p>19 (Cardinal-Norris Exhibit 14 marked.)</p> <p>20 - - -</p> <p>21 MR. FULLER: Gina, this is Norris 24.</p> <p>22 And for the record, this is Plaintiff's 23 Exhibit 14.</p> <p>24</p>
<p style="text-align: right;">Page 155</p> <p>1 A. No.</p> <p>2 Q. So if Cardinal suspects diversion from a 3 pharmacy or a drugstore, it has the affirmative 4 obligation to not sell opioids to that drugstore, 5 correct?</p> <p>6 MS. MAINIGI: Objection; scope. 7 Objection; form.</p> <p>8 A. Cardinal Health's anti-diversion program 9 is designed to identify those customers that we 10 suspect of diversion through our Know Your 11 Customer policy, through the other -- the 12 suspicious order monitoring, and if we have reason 13 to believe, we suspect that they are diverting, 14 then we will not ship to them.</p> <p>15 Q. So let me see if I can use what you just 16 told me to clean up the question and answer, okay? 17 So bear with me.</p> <p>18 So under Cardinal's obligation to 19 maintain effective controls against diversion, if 20 Cardinal's anti-diversion program identifies a 21 drugstore or a pharmacy that may be diverting 22 controlled substances, Cardinal is not going to 23 sell to them, correct?</p> <p>24 MS. MAINIGI: Objection; form.</p>	<p style="text-align: right;">Page 157</p> <p>1 BY MR. FULLER:</p> <p>2 Q. Ms. Norris, have you ever seen this 3 document before?</p> <p>4 A. I have not.</p> <p>5 Q. And I'll represent to you that it is 6 from the United States District Court, District of 7 Arizona.</p> <p>8 Do you see that?</p> <p>9 A. I see that.</p> <p>10 Q. And it's a case in which Arizona 11 Pharmacy, LLC sued Cardinal Health 110, Inc., et 12 al. And this document is actually Defendant 13 Cardinal's -- Cardinal Health 110, Inc., and 14 Cardinal Health 411, Inc.'s Response to 15 Plaintiff's Hearing Brief.</p> <p>16 And what I'm going to tell you is that 17 the basis of this action is that Arizona Pharmacy, 18 LLC filed a lawsuit requesting a restraining order 19 against Cardinal for stopping shipments. Okay?</p> <p>20 A. Mm-hmm, yes.</p> <p>21 Q. And this is Cardinal's response to that 22 temporary restraining request, okay?</p> <p>23 A. Okay.</p> <p>24 Q. So it was written by Cardinal's lawyers</p>

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<p>1 and filed in the Federal District Court in 2 Arizona. All right? 3 A. Okay. Can you give me a minute to read 4 through it? 5 Q. You certainly may, yes, ma'am. 6 MS. MAINIGI: Do you want to focus us on 7 what topic you're concentrating on so she can -- 8 MR. FULLER: Well, there's highlights in 9 there, like there have been with all the 10 documents, but I think the witness generally likes 11 to flip past that like she's been doing. So we'll 12 just let her take her look.</p> <p>13 BY MR. FULLER:</p> <p>14 Q. Ms. Norris, you can take as much time as 15 you want and review the document, but I'm going to 16 focus on the bottom of page 6 where it talks about 17 "might."</p> <p>18 A. I've just gotten there.</p> <p>19 Q. Perfect timing then, huh?</p> <p>20 A. Yep.</p> <p>21 Q. And you just let me know when you're 22 ready. We've got all day, until about 7:30 23 tonight.</p> <p>24 MR. FULLER: It's not that long of a</p>	<p>1 Health has an obligation to avoid filling orders 2 that might be diverted."</p> <p>3 Is that correct? Does Cardinal Health 4 have an obligation to avoid filling orders that 5 might be diverted?</p> <p>6 A. That is the statement that --</p> <p>7 MS. MAINIGI: Objection. Excuse me. 8 Objection to scope.</p> <p>9 A. That is the statement that is made here.</p> <p>10 Q. Is that an obligation that Cardinal has, 11 is to prevent from filling orders that might be 12 diverted?</p> <p>13 A. Cardinal Health has an obligation to 14 maintain effective controls against diversion.</p> <p>15 Q. So you agree with this statement made by 16 Cardinal's lawyers to the District Court in 17 Arizona, in an attempt to prevent from having a 18 restraining order put on them, to actually provide 19 controlled substances, correct?</p> <p>20 MS. MAINIGI: Objection to form. 21 Objection to scope.</p> <p>22 A. Cardinal Health has an obligation to do 23 its due diligence and understand all of the 24 factors related to that order and determine</p>
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<p>1 drive.</p> <p>2 MS. MAINIGI: We'll find out.</p> <p>3 A. Okay.</p> <p>4 Q. Okay, ma'am. So if you'll turn to page 5 6.</p> <p>6 A. Yes.</p> <p>7 Q. And you've had a chance to review this 8 document, at least most of it, correct?</p> <p>9 A. Just now, yes.</p> <p>10 Q. Yes, ma'am. And it is practically what 11 I -- well, I say practically. It is what I 12 explained to you. It's an action by a pharmacy 13 or -- a former customer of Cardinal because they 14 cut -- Cardinal cut them off in trying to get a 15 restraining order to continue shipments of 16 controlled Schedule II substances, opioids, 17 correct?</p> <p>18 MS. MAINIGI: Objection to form.</p> <p>19 A. The last piece, the specifics aren't 20 included here, but the distribution of controlled 21 substances I believe is what is at issue.</p> <p>22 Q. Fair enough.</p> <p>23 And then if you look down there at the 24 bottom, do you see that, where it says, "Cardinal</p>	<p>1 whether or not that order poses an unreasonable 2 risk of diversion.</p> <p>3 Q. And if there's a risk of diversion, it 4 has to not ship that order; do you agree?</p> <p>5 MS. MAINIGI: Objection to form.</p> <p>6 A. If Cardinal Health identifies an 7 unreasonable risk of diversion, we will not ship 8 the order.</p> <p>9 Q. And the lawyer in this brief goes on to 10 say, "Any emphasis on whether the Plaintiff is 11 actually diverting controlled substances is a red 12 herring that has no bearing on whether its 13 ordering pattern indicates -- or its ordering 14 patterns indicate that it might be engaged in 15 diversion."</p> <p>16 Do you agree with that statement, ma'am?</p> <p>17 A. One of the ways that Cardinal Health has 18 determined whether a customer poses an 19 unreasonable risk of diversion is to look at 20 ordering patterns and determine whether those are 21 similar to other customers who we have terminated 22 for diverting. That was an element of our 23 program, an anti-diversion program.</p> <p>24 Q. And so is that yes to the question?</p>

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<p>1 MS. MAINIGI: Objection to form.</p> <p>2 Q. And, ma'am, you can say "no." You can</p> <p>3 disagree with the statement that Cardinal's</p> <p>4 lawyers put before the Federal District Court in</p> <p>5 Arizona. That's okay.</p> <p>6 A. I understand. One of the indications</p> <p>7 that Cardinal Health looks at for purposes of</p> <p>8 determining whether a customer poses an</p> <p>9 unreasonable risk of diversion is ordering</p> <p>10 pattern.</p> <p>11 Q. So is that a yes?</p> <p>12 A. Yes what?</p> <p>13 Q. Yes to my question.</p> <p>14 MS. MAINIGI: Do you want to ask it</p> <p>15 again?</p> <p>16 Q. The question was, "And the lawyer in</p> <p>17 this brief goes on to say, 'Any emphasis on</p> <p>18 whether the Plaintiff is actually diverting</p> <p>19 controlled substances is a red herring that has no</p> <p>20 bearing on whether the ordering -- order</p> <p>21 pattern -- ordering pattern indicates or it --</p> <p>22 ordering pattern." I'll try it again. Jeez</p> <p>23 Louise.</p> <p>24 And, ma'am, I'm looking at the second</p>	<p>1 Q. Okay. And what Cardinal is attempting</p> <p>2 to do is to operate in the safest way possible</p> <p>3 when it's dealing with controlled substances; is</p> <p>4 that true?</p> <p>5 MS. MAINIGI: Objection; scope.</p> <p>6 A. Cardinal Health takes very seriously its</p> <p>7 obligations related to all of the work it</p> <p>8 provides, but also in regard to its distributing</p> <p>9 of controlled substances, yes.</p> <p>10 Q. And it wants to do it the safest way</p> <p>11 possible; one, for the general public and, two, to</p> <p>12 comply with the regulations; is that fair?</p> <p>13 MS. MAINIGI: Objection; scope.</p> <p>14 Objection; form.</p> <p>15 A. Cardinal Health wants to ensure that</p> <p>16 it's complying with the obligations under the</p> <p>17 statute and the guidance.</p> <p>18 Q. Does it also want to ensure that it does</p> <p>19 what it can to prevent the public from harm?</p> <p>20 MS. MAINIGI: Objection; scope.</p> <p>21 Objection; form.</p> <p>22 A. I don't know that Cardinal owes a duty</p> <p>23 to the public regarding that. Cardinal Health has</p> <p>24 an obligation to comply with its obligations under</p>
<p>1 sentence there in that paragraph. And does</p> <p>2 Cardinal agree that any emphasis on whether a</p> <p>3 Plaintiff is actually diverting a controlled</p> <p>4 substance is a red herring, and it has no bearing</p> <p>5 on whether its ordering patterns indicate that it</p> <p>6 might be engaged in diversion."</p> <p>7 Does Cardinal agree; yes or no?</p> <p>8 MS. MAINIGI: Objection to form.</p> <p>9 A. Not necessarily. It's looking at the</p> <p>10 circumstances in total.</p> <p>11 Q. Right.</p> <p>12 A. I guess --</p> <p>13 Q. I'm sorry. Go ahead.</p> <p>14 A. But I guess I'm having a hard time</p> <p>15 parsing out exactly what you're asking here.</p> <p>16 Q. Well, let's break it down a little bit.</p> <p>17 A. Okay.</p> <p>18 Q. Cardinal's obligation to maintain</p> <p>19 effective controls against diversion doesn't mean</p> <p>20 it has to actually go out and prove that the</p> <p>21 drugstore or pharmacy is diverting?</p> <p>22 MS. MAINIGI: Objection; form.</p> <p>23 Objection; scope.</p> <p>24 A. Correct.</p>	<p>1 the law and the guidelines --</p> <p>2 Q. And I'm just --</p> <p>3 A. -- guidance.</p> <p>4 Q. I'm sorry. Go ahead.</p> <p>5 A. Guidance instead of guidelines. Sorry.</p> <p>6 Q. And I'm just asking if Cardinal wants to</p> <p>7 do what it can to help protect the public from</p> <p>8 harm; yes or no?</p> <p>9 MS. MAINIGI: Objection; scope.</p> <p>10 Objection; form.</p> <p>11 A. Cardinal Health operates in accordance</p> <p>12 with the applicable laws, statutes, regulations,</p> <p>13 and guidance.</p> <p>14 Q. Does Cardinal Health operate with a</p> <p>15 moral compass, too?</p> <p>16 MS. MAINIGI: Objection; form.</p> <p>17 Objection; scope.</p> <p>18 Q. Or does Cardinal not care if --</p> <p>19 MS. MAINIGI: I think soon it should be</p> <p>20 time for a lunch break, Mike, because I think</p> <p>21 we're --</p> <p>22 MR. FULLER: As soon as we finish this</p> <p>23 document, yes, ma'am.</p> <p>24 MS. MAINIGI: Fine. Then go back to the</p>

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<p>1 document, because there's nothing about a moral 2 compass in the document.</p> <p>3 A. I'm sorry. What was your question?</p> <p>4 Q. Does Cardinal not feel that it has an 5 obligation to the general public?</p> <p>6 MS. MAINIGI: Objection to scope.</p> <p>7 Objection to form.</p> <p>8 A. Cardinal Health does not have an 9 obligation to the general public. Cardinal Health 10 has an obligation to perform its duties in 11 accordance with the law, the statute, regulations, 12 and guidance.</p> <p>13 Q. And I got it. So the answer is no, 14 Cardinal Health does not believe it has an 15 obligation to the general public, correct?</p> <p>16 MS. MAINIGI: Objection to form.</p> <p>17 Objection to scope.</p> <p>18 A. No.</p> <p>19 Q. No, that's not correct, or no, you agree 20 with me?</p> <p>21 MS. MAINIGI: Objection to form.</p> <p>22 Objection to scope.</p> <p>23 Q. Let me ask it a different way. Yes or 24 no, does Cardinal have a general obligation to</p>	<p>1 question.</p> <p>2 We'll take a lunch break.</p> <p>3 MS. MAINIGI: I thought you wanted to 4 finish this document? Why don't we finish the 5 document.</p> <p>6 MR. FULLER: Okay.</p> <p>7 MR. FARRELL: Well, at this pace, we'll 8 be here all day.</p> <p>9 MR. FULLER: That's all right.</p> <p>10 MS. MAINIGI: Talk to your guy.</p> <p>11 MR. FARRELL: Well, talk to your 12 witness. She hasn't answered the question yet.</p> <p>13 MS. MAINIGI: If he's got more 14 questions --</p> <p>15 MR. FULLER: Oh, he's got to switch the 16 media anyway.</p> <p>17 MR. FARRELL: Let's take a lunch break.</p> <p>18 THE VIDEOGRAPHER: The time is now 19 12:39. Going off the record.</p> <p>20 - - -</p> <p>21 Thereupon, at 12:39 p.m. a lunch 22 recess was taken until 1:49 p.m.</p> <p>23 - - -</p> <p>24</p>
Page 167	Page 169
<p>1 protect the public?</p> <p>2 MS. MAINIGI: Objection to form.</p> <p>3 Objection to scope.</p> <p>4 A. Cardinal Health has an obligation to 5 comply with the laws that apply to the services it 6 provides.</p> <p>7 Q. Yes, ma'am. But that wasn't my 8 question. Not even close.</p> <p>9 My question is simply does Cardinal 10 believe that it has an obligation to the general 11 public in distributing controlled substances?</p> <p>12 It's either yes, we do, or no, we don't. We know 13 about the regs.</p> <p>14 MS. MAINIGI: Objection to form. She's 15 been asked that question a number of times and 16 answered it a number of times. Objection to 17 scope.</p> <p>18 Q. Go ahead.</p> <p>19 A. I'll say it again. Cardinal Health has 20 an obligation to comply with the applicable laws, 21 rules, regulations, and guidance in the 22 performance of its services.</p> <p>23 MR. FULLER: And I'll reserve my right 24 to come back and have you compelled to answer that</p>	<p>1 Tuesday Afternoon Session 2 July 7, 2018 3 1:49 p.m. 4 - - - 5 THE VIDEOGRAPHER: All right. The time 6 is now 1:49. Back on the record.</p> <p>6 - - -</p> <p>7 CROSS-EXAMINATION</p> <p>8 BY MR. FARRELL:</p> <p>9 Q. Good afternoon. My name is Paul 10 Farrell, and I'm going to be covering some of the 11 subject matters in the first notice of the 12 30(b)(6) deposition.</p> <p>13 I'd like to reference where we left off, 14 which is Norris 14 or the deposition -- Plaintiff 15 Exhibit 13, and it was the September 27, 2006 16 correspondence from DEA to Cardinal Health.</p> <p>17 You recognize this document, yes?</p> <p>18 A. I do.</p> <p>19 Q. Now, one of the questions I have is when 20 you look at the addressee, it says Knoxville, 21 Tennessee. Can you confirm whether one of these 22 Dear Registrant letters, identical to the 23 September 27, 2006 letter to Knoxville, Tennessee, 24 was also sent to all of the other Cardinal Health</p>

<p style="text-align: right;">Page 170</p> <p>1 distribution centers.</p> <p>2 A. That is my understanding, yes.</p> <p>3 Q. Without belaboring the point, when you</p> <p>4 review this 2006 correspondence from the DEA,</p> <p>5 sitting here today, does Cardinal Health affirm</p> <p>6 and ratify the statements regarding the law</p> <p>7 contained therein?</p> <p>8 MS. MAINIGI: Objection; scope.</p> <p>9 Objection; form.</p> <p>10 MR. FARRELL: Well, it can't be outside</p> <p>11 the scope. It like literally was written in there</p> <p>12 because I typed it myself.</p> <p>13 MS. MAINIGI: That's my objection.</p> <p>14 MR. FARRELL: Okay.</p> <p>15 MS. MAINIGI: If you want to point her</p> <p>16 to a particular sentence that happens to relate</p> <p>17 back to your topic, that's fine.</p> <p>18 MR. FARRELL: That's okay.</p> <p>19 BY MR. FARRELL:</p> <p>20 Q. So what I'm asking, sitting here today,</p> <p>21 representing Cardinal Health, do you accept the</p> <p>22 statements set forth in the September 27, 2006</p> <p>23 letter from the DEA related to the duties under</p> <p>24 the regulations?</p>	<p style="text-align: right;">Page 172</p> <p>1 A. Yes.</p> <p>2 Q. And from that point forward, that was</p> <p>3 the law in the United States of America according</p> <p>4 to Cardinal?</p> <p>5 MS. MAINIGI: Objection to form.</p> <p>6 A. From that point forward, that was the</p> <p>7 guidance the DEA was providing to Cardinal Health</p> <p>8 regarding its obligations.</p> <p>9 Q. And according to the DEA, if you did not</p> <p>10 follow this guidance, you may be engaging in</p> <p>11 unlawful conduct?</p> <p>12 MS. MAINIGI: Objection to form.</p> <p>13 Objection to scope.</p> <p>14 A. We may be engaging in activities that do</p> <p>15 not comply with the statute, regulations, and</p> <p>16 DEA's guidance.</p> <p>17 Q. Okay. Has Cardinal Health since</p> <p>18 September 27, 2006 accepted the duties set forth</p> <p>19 in the Dear Registrant letter?</p> <p>20 MS. MAINIGI: Objection to form.</p> <p>21 A. Generally, yes, as further modified by</p> <p>22 additional DEA guidance.</p> <p>23 Q. Very good. So sitting here today, you</p> <p>24 can tell me that as of September 27, 2006,</p>
<p style="text-align: right;">Page 171</p> <p>1 MS. MAINIGI: Objection to form.</p> <p>2 Objection to scope.</p> <p>3 A. I accept that this letter laid out</p> <p>4 duties and regulations, but that it also presented</p> <p>5 new duties that Cardinal Health was to comply with</p> <p>6 under the regulations.</p> <p>7 Q. So as of September 27, 2006, you</p> <p>8 acknowledge that this letter sets forth the</p> <p>9 obligations under the Controlled Substances Act</p> <p>10 and under the Code of Federal Regulations for</p> <p>11 Cardinal Health?</p> <p>12 MS. MAINIGI: Objection; scope.</p> <p>13 Objection; form.</p> <p>14 A. As to the reiteration of the reporting</p> <p>15 requirement, yes. Again, the "shipping</p> <p>16 requirement," to use short form, was a new -- new</p> <p>17 idea to Cardinal Health at the time they received</p> <p>18 this letter. So it was not -- I do not agree that</p> <p>19 that was an obligation in the statute going back.</p> <p>20 Q. Okay. So let's start over.</p> <p>21 Do you agree that on September 27, 2006,</p> <p>22 Cardinal Health got instructions with a new</p> <p>23 requirement called the shipping requirement?</p> <p>24 MS. MAINIGI: Objection to form.</p>	<p style="text-align: right;">Page 173</p> <p>1 Cardinal Health's position has been that it will</p> <p>2 comply moving forward with the Dear Registrant</p> <p>3 letter?</p> <p>4 MS. MAINIGI: Objection to form.</p> <p>5 A. Generally speaking, yes, as modified by</p> <p>6 the additional guidance Cardinal Health received</p> <p>7 over time.</p> <p>8 Q. Is there anything set forth in the 2006</p> <p>9 Dear Registrant letter that Cardinal Health</p> <p>10 objects to, disagrees with, or takes exception to?</p> <p>11 MS. MAINIGI: Objection to form.</p> <p>12 Do you want her to take a look at the</p> <p>13 letter?</p> <p>14 MR. FARRELL: I'm assuming she already</p> <p>15 has since it's listed specifically in the subject</p> <p>16 matter for this deposition.</p> <p>17 A. Generally speaking, at least one of the</p> <p>18 issues that Cardinal Health took umbrage with was</p> <p>19 that -- the idea that the shipping requirement had</p> <p>20 always existed.</p> <p>21 Q. Okay.</p> <p>22 A. It had not.</p> <p>23 Q. Okay. So do you believe that within the</p> <p>24 2006 registrant letter, there is a statement</p>

1 imposing a shipping requirement? 2 MS. MAINIGI: Objection; asked and 3 answered. 4 A. Generally speaking, yes. 5 MS. MAINIGI: And, again, shipping 6 requirement being defined right now for the 7 purposes of our conversation by how Masters 8 defined it, which is a do not ship requirement. 9 MR. FARRELL: So raise your right hand. 10 MS. MAINIGI: Do you agree? 11 MR. FARRELL: Well, I have to raise my 12 right hand if I'm going to testify. So I'll make 13 you a deal. Let's both raise our right hands. 14 MS. MAINIGI: I'm asking you a question. 15 BY MR. FARRELL: 16 Q. Okay. So I'm now going to have marked 17 the next sequential exhibit, which is the 18 Deposition Exhibit 15, but is Norris 15, which 19 I'll represent to you is the December 27, 2007 DEA 20 letter that you just referenced. 21 - - - 22 (Cardinal-Norris Exhibit 15 marked.) 23 - - - 24	Page 174 1 third letter; although, it is the second from a 2 substantive standpoint. 3 Q. So you recognize this as a true and 4 accurate copy of that document? 5 A. Yes. 6 Q. In fact, does it have a Bates stamp in 7 the bottom right-hand corner? 8 A. It has a stamp in the bottom right-hand 9 corner. 10 Q. Okay. And read those letters and 11 numbers. 12 A. CAH_MDL_PRIORPROD_DEA12_00010980. 13 Q. All right. So have you reviewed this 14 document before coming here today? 15 A. Yes. 16 Q. All right. You'll agree with me that it 17 further clarifies the shipping requirement as the 18 DEA was interpreting it in 2007? 19 MS. MAINIGI: Objection to form. 20 A. Yes. 21 Q. And you agree that as of this letter, 22 there can be no doubt that a shipping requirement 23 exists in the United States of America? 24 MS. MAINIGI: Objection to form.
Page 175 1 BY MR. FARRELL: 2 Q. And, again, what you'll note is that it 3 is addressed to Syracuse, New York. I'm assuming 4 that Cardinal Health will acknowledge this 2007 5 Dear Registrant letter was, in fact, sent to every 6 one of the distribution facilities Cardinal Health 7 had at the time across the country. 8 A. Yes. 9 Q. Do you recognize this document? 10 A. I do. 11 Q. Is this, in fact, the second Dear 12 Registrant letter sent by the DEA to Cardinal 13 Health? 14 A. Technically the third, but yes. 15 Q. Okay. So tell me -- explain that to me. 16 A. I think, as we talked about -- 17 MS. MAINIGI: Objection; asked and 18 answered. 19 A. As we talked about this morning, there 20 were actually two different -- two different 21 versions of letter one. "Versions" is not the 22 right word, because they sent almost an identical 23 copy in February, I believe, of 2007 of what they 24 had sent in 2006. So this is technically the	Page 177 1 A. This letter clarifies DEA's guidance 2 that there was a shipping requirement. 3 Q. Has Cardinal Health always taken that 4 position? 5 MS. MAINIGI: Objection to form. 6 Objection; time period. 7 Go ahead. 8 A. Always in what -- I don't know what time 9 period you're referring to as "always," because we 10 didn't receive the letter until December 27, 2007. 11 Q. Fair enough. 12 After December 27, 2007, has Cardinal 13 Health always taken the position that there was a 14 shipping requirement? 15 MS. MAINIGI: Objection to form. 16 A. Yes. 17 Q. So since 2007, Cardinal Health has 18 always taken the position there was a duty to stop 19 shipment of suspicious orders? 20 MS. MAINIGI: Objection to form. 21 Q. That's your position today? 22 MS. MAINIGI: Sorry. Objection; form. 23 Objection; scope. 24 A. Cardinal Health designed the

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<p>1 enhancements to its program after 2007 to ensure 2 that suspicious orders were not shipped. Orders 3 reported as suspicious were not shipped.</p> <p>4 Q. That wasn't my question.</p> <p>5 My question is, since 2007, has Cardinal 6 Health always taken the position that there is a 7 duty to stop shipment of suspicious orders?</p> <p>8 MS. MAINIGI: Objection; form and scope.</p> <p>9 A. Cardinal Health designed its program 10 after 2007 -- in 2007, the enhancements to its 11 program, to ensure that it didn't ship orders it 12 had reported as suspicious.</p> <p>13 Q. I think that must be written behind me 14 somewhere. Let me ask again.</p> <p>15 Since 2007, has Cardinal Health always 16 taken the position that there is a duty to stop 17 shipment of suspicious orders?</p> <p>18 MS. MAINIGI: Objection; asked and 19 answered. Objection; scope.</p> <p>20 A. I'm not sure I understand the nuance in 21 your question. We designed the program --</p> <p>22 Q. There is no nuance.</p> <p>23 MS. MAINIGI: Can you let her finish?</p> <p>24 A. We designed the program to comply with</p>	<p>1 don't understand the question. We designed our 2 program to comply with the guidance.</p> <p>3 MS. MAINIGI: And I'll interpose an 4 objection to form. Objection to scope.</p> <p>5 Q. Since 2007, has Cardinal Health always 6 taken the position that there is a shipping 7 requirement as outlined in Masters Pharmaceutical?</p> <p>8 A. Taken the position where?</p> <p>9 MS. MAINIGI: Same objections.</p> <p>10 Q. Anywhere. Why don't we just say first 11 the public record.</p> <p>12 MS. MAINIGI: Objection to form.</p> <p>13 A. This -- to the best of my knowledge, 14 this was the program -- we designed the program to 15 comply, and there was a shipping -- we do not ship 16 the orders that we report as suspicious.</p> <p>17 Q. Have you changed that position in a 18 court of public record since 2007 --</p> <p>19 MS. MAINIGI: Objection to form.</p> <p>20 Q. -- to the best of your knowledge?</p> <p>21 A. Not to my knowledge.</p> <p>22 Q. Okay. Will you -- I'm going to bring up 23 now a transcript from June 20, 2017 in the United 24 States District Court for the Southern District of</p>
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<p>1 the guidance --</p> <p>2 Q. I know. This is the third time you've 3 said that. What I'm trying --</p> <p>4 MS. MAINIGI: Would you just let her 5 explain?</p> <p>6 MR. FARRELL: No, I'm not, because we've 7 moving through this.</p> <p>8 MS. MAINIGI: You're going to --</p> <p>9 MR. FARRELL: Yes, I'm going to 10 interrupt her.</p> <p>11 BY MR. FARRELL:</p> <p>12 Q. I'm asking you whether or not the 13 position you're taking today about the 2007 letter 14 and the shipping requirement has changed over time 15 since 2007?</p> <p>16 MS. MAINIGI: So phrase it in the form 17 of a question --</p> <p>18 MR. FARRELL: I'm not.</p> <p>19 MS. MAINIGI: -- and she'll answer it.</p> <p>20 MR. FARRELL: I'm not. I can't be any 21 clearer.</p> <p>22 MS. MAINIGI: Object.</p> <p>23 Is that your question?</p> <p>24 A. I guess I don't -- I'm sorry. I guess I</p>	<p>1 West Virginia. So we'll go to the front page 2 first, and I'll show it to you.</p> <p>3 MS. MAINIGI: Can we have a copy?</p> <p>4 MR. FARRELL: I don't have one.</p> <p>5 BY MR. FARRELL:</p> <p>6 Q. So you see the date June 20?</p> <p>7 MS. MAINIGI: You've got to let her read 8 the transcript.</p> <p>9 Q. Do you see the date June 20?</p> <p>10 A. I do.</p> <p>11 Q. Okay. This is ten days before the 12 Masters Pharmaceutical case was released. I'll 13 represent that to you. Now I'm going to go to 14 page 88. This is counsel for Cardinal Health.</p> <p>15 MS. MAINIGI: Can we go all the way up 16 to the top?</p> <p>17 Q. So I'd ask for you to read what's 18 highlighted. Read it aloud.</p> <p>19 A. "Because there is no statute, no 20 regulation at the federal or state level that says 21 distributors should stop shipments if there's 22 suspicious orders."</p> <p>23 Q. Now I'm going to have you look down to 24 the provision that's highlighted below that.</p>

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<p>1 Would you read that aloud?</p> <p>2 A. "There's no duty, there's no regulation</p> <p>3 that says we're supposed to stop shipment."</p> <p>4 Q. That's what I was trying to figure out,</p> <p>5 is whether or not -- it looks like ten days before</p> <p>6 the Masters case came out, Cardinal Health's</p> <p>7 position was there was no duty to stop shipment.</p> <p>8 MS. MAINIGI: Objection; form.</p> <p>9 Objection; scope.</p> <p>10 A. The language says there's no statute, no</p> <p>11 regulation at the federal or state level, which is</p> <p>12 true. There is no statute and no regulation that</p> <p>13 says distributors should stop shipments if there's</p> <p>14 suspicious orders. Cardinal Health's position has</p> <p>15 not changed on that.</p> <p>16 Q. Do you recognize that the Masters</p> <p>17 Pharmaceutical case that came out rejected that</p> <p>18 position?</p> <p>19 MS. MAINIGI: Objection to form.</p> <p>20 A. I don't believe they rejected the</p> <p>21 position regarding the statute or the regulation</p> <p>22 statement.</p> <p>23 Q. You understand that Masters</p> <p>24 Pharmaceutical, as you went through this morning,</p>	<p>1 Q. Was Cardinal Health -- did Cardinal</p> <p>2 Health approve or ratify it prior to its filing?</p> <p>3 MS. MAINIGI: Objection to form.</p> <p>4 A. Cardinal Health provided commentary on</p> <p>5 it prior to its filing.</p> <p>6 Q. Did Cardinal Health approve it?</p> <p>7 A. Cardinal Health provided commentary.</p> <p>8 Q. Did Cardinal Health approve it?</p> <p>9 MS. MAINIGI: Objection to form. Asked</p> <p>10 and answered.</p> <p>11 A. Cardinal Health provided commentary.</p> <p>12 Q. Did Cardinal Health approve it?</p> <p>13 MS. MAINIGI: Objection to form. Asked</p> <p>14 and answered.</p> <p>15 A. It provided commentary on it.</p> <p>16 Q. Did Cardinal Health approve the document</p> <p>17 prior to filing? Fifth time I'm asking.</p> <p>18 A. I understand.</p> <p>19 MS. MAINIGI: Objection to form. Asked</p> <p>20 and answered.</p> <p>21 A. Cardinal Health provided commentary on</p> <p>22 the amicus brief.</p> <p>23 Q. Let me give you a hint. I'm not going</p> <p>24 to ask you a question that I probably don't know</p>
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<p>1 has a shipping requirement?</p> <p>2 A. Yes.</p> <p>3 Q. It says you have a duty to stop shipment</p> <p>4 of suspicious orders?</p> <p>5 MS. MAINIGI: Objection to form.</p> <p>6 A. It refers to a shipping requirement,</p> <p>7 yes.</p> <p>8 Q. So I'm asking you, sitting here today,</p> <p>9 does Cardinal Health believe there is a shipping</p> <p>10 requirement as set forth in Masters</p> <p>11 Pharmaceutical?</p> <p>12 MS. MAINIGI: Objection to form.</p> <p>13 A. Yes.</p> <p>14 Q. And it has been so since at least the</p> <p>15 2007 Dear Registrant letter according to Cardinal</p> <p>16 Health?</p> <p>17 A. I believe that's also the reference in</p> <p>18 Masters.</p> <p>19 Q. Very good. Now what I'm going to ask</p> <p>20 you to go and look at is -- you're familiar with</p> <p>21 the amicus brief in Masters Pharmaceutical?</p> <p>22 A. I am.</p> <p>23 Q. Did you participate in writing it?</p> <p>24 A. I did not.</p>	<p>1 the answer to.</p> <p>2 So are you aware of whether or not</p> <p>3 Cardinal Health approved the amicus brief prior to</p> <p>4 filing?</p> <p>5 MS. MAINIGI: Objection to form. Asked</p> <p>6 and answered.</p> <p>7 A. It provided commentary. I don't know if</p> <p>8 that commentary rose to the level of approval.</p> <p>9 - - -</p> <p>10 (Cardinal-Norris Exhibit 16 marked.)</p> <p>11 - - -</p> <p>12 Q. I'm going to have marked now Deposition</p> <p>13 Exhibit 16. I'm going to hand it to you. It is</p> <p>14 Bates-stamped ABDCMDL00275057. It is the</p> <p>15 Healthcare Distribution Management Association's</p> <p>16 Executive Committee Meeting summary from June 12,</p> <p>17 2016 held in Colorado Springs, Colorado.</p> <p>18 Have you seen or are you familiar with</p> <p>19 this document?</p> <p>20 A. I am not. I have not.</p> <p>21 Q. When you flip to page 2, you'll notice</p> <p>22 that it says June 12, 2016, or on the front page</p> <p>23 as well.</p> <p>24 A. Yes, it says June 12, 2016.</p>

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<p>1 Q. The first thing I'd like to direct your 2 attention to is the very beginning on page 4. And 3 you'll notice at the top, these are the minutes 4 from the Pebble Beach, California Executive 5 Committee meeting. And you'll see in 6 attendance -- well, you see the second person who 7 is in attendance?</p> <p>8 A. Yes.</p> <p>9 Q. Who is that?</p> <p>10 A. John Giacomin, Vice Chairman.</p> <p>11 Q. Of?</p> <p>12 A. CEO, Pharmaceutical Segment, Cardinal 13 Health, Inc.</p> <p>14 Q. So Cardinal Health, Inc. sent their CEO 15 of the Pharmaceutical Segment to this meeting, 16 correct?</p> <p>17 A. Well, I believe John serves on the 18 Executive Committee.</p> <p>19 Q. Cardinal Health sent its CEO to attend 20 this meeting?</p> <p>21 MS. MAINIGI: Objection; scope.</p> <p>22 A. The CEO of the Pharmaceutical Segment 23 who was on the Executive Committee.</p> <p>24 Q. Of HDMA?</p>	<p>1 suspicious order reporting. Notice-and-comment 2 rule-making required."</p> <p>3 Do you see that?</p> <p>4 A. I see that.</p> <p>5 Q. So when you look below at the actions, 6 you'll see that it was subject to a vote and 7 approved to submit an amicus brief, agreed?</p> <p>8 MS. MAINIGI: Objection to form.</p> <p>9 A. The executive committee approved filing 10 of the brief.</p> <p>11 Q. Right. Now, flip to the previous page. 12 And the interesting thing is that they're talking 13 about the West Virginia litigation.</p> <p>14 A. I'm sorry. Flip to what page? I 15 apologize.</p> <p>16 Q. That's all right. The previous page. 17 It will be 5 at the bottom of the page, I think.</p> <p>18 A. Yes.</p> <p>19 Q. And you'll see that there's a provision 20 in there about the West Virginia litigation under 21 Item 4. And the paragraph at the bottom of the 22 page --</p> <p>23 MS. MAINIGI: I think she's reading it. 24 Can you give her a moment to take a look at it?</p>
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<p>1 A. Yes.</p> <p>2 Q. Now, if you look down at the bottom at 3 the Welcome and Administrative Matters, actually 4 Mr. Giacomin from Cardinal Health chaired this 5 meeting, correct?</p> <p>6 A. That's what it appears from the 7 language, yes.</p> <p>8 Q. Now, if you flip to the next page under 9 paragraph C, Legal Issues, the first item is the 10 Masters Pharmaceuticals case.</p> <p>11 Would you read aloud what the summary 12 says?</p> <p>13 A. "The status of the Masters litigation as 14 well as discussion of the draft amicus curiae 15 brief to be possibly filed on behalf of HDMA will 16 be discussed later in the meeting led by President 17 Gray and HDMA General Counsel Gallenagh."</p> <p>18 Q. Now, if you flip to the next page, 19 you'll see that there is a provision -- no. We're 20 going to go down to the Masters first. You're 21 going to see that under Masters amicus brief, it 22 states, "The central theme of the draft brief is 23 that DEA must follow statutory and regulatory 24 requirements regarding the imposition of</p>	<p>1 A. Okay.</p> <p>2 Q. Now, the last paragraph that's on that 3 page starting with "Counsel Frank," will you read 4 that aloud, please?</p> <p>5 A. "Counsel Frank characterized the series 6 of DEA and state actions as efforts to improperly 7 expand distributors' responsibilities beyond 8 simply reporting suspicious orders to actually 9 preventing the distribution of controlled 10 substances to licensed dispensers. States are 11 bringing these actions for similar reasons but 12 also in an effort to collect monetary damages and 13 penalties."</p> <p>14 Q. So now you understand my confusion from 15 this morning when it seems as if Cardinal Health 16 is participating in an amicus brief and 17 characterizing the DEA and the state actions as 18 actually requiring you, Cardinal Health, to 19 prevent distribution of controlled substances to 20 licensed dispensers.</p> <p>21 So, again, my question goes back to it. 22 Prior to the release of Masters Pharmaceutical, 23 are you sure Cardinal Health hadn't flip-flopped 24 its positions regarding the shipping requirement?</p>

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<p>1 MS. MAINIGI: Objection to form.</p> <p>2 Objection to scope.</p> <p>3 A. No, I do not believe Cardinal Health</p> <p>4 flip-flopped its position. We designed our</p> <p>5 program to comply with the shipping requirement.</p> <p>6 The fact that we participated in these briefs</p> <p>7 doesn't mean that we were not complying with the</p> <p>8 requirements as we understood the DEA to have</p> <p>9 provided us guidance for.</p> <p>10 Q. Understood. We'll get to the brief now,</p> <p>11 which is going to be marked as Exhibit 17. It's</p> <p>12 Norris 20.</p> <p>13 - - -</p> <p>14 (Cardinal-Norris Exhibit 17 marked.)</p> <p>15 - - -</p> <p>16 BY MR. FARRELL:</p> <p>17 Q. Have you seen and read this brief</p> <p>18 before?</p> <p>19 MS. MAINIGI: Well, can you let her lay</p> <p>20 eyes on it, and then she can tell which one you're</p> <p>21 talking about.</p> <p>22 Q. Have you reviewed this document prior to</p> <p>23 today?</p> <p>24 A. I have.</p>	<p>1 through the fact that this amicus brief was</p> <p>2 approved for filing by HDMA and was eventually</p> <p>3 filed by HDMA?</p> <p>4 A. Correct. It was approved for filing</p> <p>5 subject to final review and approval.</p> <p>6 Q. And that chairman of that committee was</p> <p>7 who?</p> <p>8 A. The chairman at the time was Ted</p> <p>9 Schurer.</p> <p>10 Q. The acting chair?</p> <p>11 A. Yes. I assume where you're going is</p> <p>12 John was chairing the meeting that day.</p> <p>13 Q. So this nonsense objection gets right</p> <p>14 back to where we were. This is the amicus brief</p> <p>15 that Cardinal Health, as a member of HDMA,</p> <p>16 submitted in the Masters Pharmaceutical case,</p> <p>17 agreed?</p> <p>18 MS. MAINIGI: Objection to form.</p> <p>19 A. This is the amicus brief that HDMA</p> <p>20 filed.</p> <p>21 Q. All right. Now, if you flip to page 5,</p> <p>22 Norris 20-005.</p> <p>23 A. Yes.</p> <p>24 Q. So at the very -- the first highlighted</p>
<p>1 Q. You're aware that it's one of the items</p> <p>2 listed in the 30(b)(6) notice?</p> <p>3 A. I am.</p> <p>4 Q. This is the amicus brief that was</p> <p>5 approved by HDMA during a meeting chaired by</p> <p>6 Cardinal Health's CEO.</p> <p>7 A. Approved to be filed, yes.</p> <p>8 Q. Approved to be filed. Ratifying its</p> <p>9 truth and accuracy?</p> <p>10 MS. MAINIGI: Objection to form.</p> <p>11 And I hope you're not mischaracterizing</p> <p>12 facts to this witness. Did you show her where it</p> <p>13 was approved?</p> <p>14 MR. FARRELL: Yeah. Again, this is</p> <p>15 about your 15th speaking objection. She can</p> <p>16 answer the question.</p> <p>17 MS. MAINIGI: I don't think so.</p> <p>18 A. The action was --</p> <p>19 MR. FARRELL: Gee, that's amazing that</p> <p>20 she picked up right on what your objection was.</p> <p>21 Enu, that's not an appropriate objection. She can</p> <p>22 ask or answer herself.</p> <p>23 BY MR. FARRELL:</p> <p>24 Q. The fact of the matter is we walked</p>	<p>1 provision in there, I'll read it aloud to make</p> <p>2 this quicker. "The public health dangers</p> <p>3 associated with diversion and abuse of controlled</p> <p>4 prescription drugs have been well recognized by</p> <p>5 Congress, DEA, public health authorities, and</p> <p>6 others, including HDMA and NACDS and their</p> <p>7 members."</p> <p>8 Do you see that?</p> <p>9 A. I do.</p> <p>10 Q. Sitting here today, does Cardinal Health</p> <p>11 ratify and agree with that statement?</p> <p>12 MS. MAINIGI: Objection to form.</p> <p>13 Objection; scope.</p> <p>14 A. Cardinal Health agrees with this</p> <p>15 statement.</p> <p>16 Q. So if controlled substances that</p> <p>17 Cardinal Health sells gets diverted, it has the</p> <p>18 potential to cause public health dangers, agreed?</p> <p>19 MS. MAINIGI: Objection; scope.</p> <p>20 Objection; form.</p> <p>21 A. Can you repeat the question?</p> <p>22 Q. Cardinal Health has an obligation --</p> <p>23 well, wait a minute. Where am I here?</p> <p>24 If controlled substances that Cardinal</p>

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<p>1 Health sells gets diverted, it has the potential 2 to cause public health dangers, agreed? 3 MS. MAINIGI: Objection to form. 4 Objection to scope. 5 A. Not necessarily. 6 Q. So you disagree with the statement that 7 your trade organization submitted in the Masters 8 Pharmaceutical case? 9 MS. MAINIGI: Objection; form. 10 Objection; scope. 11 A. I don't think I'm disagreeing with the 12 statement. 13 Q. Okay. So how about this: Let's play 14 true or false. I'll read the sentence, and you 15 say true or say false, okay? 16 MS. MAINIGI: The witness can answer as 17 she likes. 18 A. Okay. 19 Q. "The public health dangers associated 20 with the diversion and abuse of controlled 21 prescription drugs have been well recognized by 22 Congress, DEA, public health authorities and 23 others, including HDMA and NACDS and their 24 members."</p>	<p>1 they have a duty to guard against diversion? 2 MS. MAINIGI: Objection; asked and 3 answered. Objection; scope. 4 A. Cardinal Health has regulatory and legal 5 obligations that it must comply with in performing 6 its services, which is what it does. 7 Q. We're going to get to your tag line 8 later. Again, your answer was clear before. You 9 don't have to repeat it. You can just say "ditto" 10 to save time. 11 I'm asking you whether or not you 12 acknowledge that the amicus brief submitted on 13 behalf of Cardinal Health's trade organization 14 states that as responsible members of society, you 15 have a duty to guard against diversion? 16 MS. MAINIGI: Objection to form. Asked 17 and answered. Objection; scope. 18 A. That is a statement in the amicus brief. 19 Q. I'm going to ask you for a third time. 20 Do you agree with this statement, yes or no? 21 MS. MAINIGI: Objection to form. Asked 22 and answered. Objection; scope. 23 A. I believe I answered. I don't believe 24 that -- with the statement in total.</p>
<p style="text-align: center;">Page 195</p> <p>1 True or false? 2 MS. MAINIGI: Objection; form. 3 Objection; scope. 4 A. True. 5 Q. "HDMA and NACDS members not only have 6 statutory and regulatory responsibilities to guard 7 against diversion of controlled prescription drugs 8 but undertakes such efforts as responsible members 9 of society." 10 True or false? 11 MS. MAINIGI: Objection; form. 12 Objection; scope. 13 A. I disagree with the "undertake such 14 efforts as responsible members of society." We 15 have a statutory and regulatory obligation that we 16 comply with. 17 Q. So it's false? 18 MS. MAINIGI: Objection to form. 19 Objection to scope. 20 A. No, not in total. 21 Q. You're sitting here on behalf of 22 Cardinal Health today, not in-house counsel. 23 Does Cardinal Health accept or reject 24 the fact that as responsible members of society,</p>	<p style="text-align: center;">Page 197</p> <p>1 Q. So it's false; you do not believe 2 there's a duty? 3 MS. MAINIGI: Objection to form. 4 Objection; asked and answered. Objection; scope. 5 A. No, I don't believe there is a duty. 6 Q. Yet Cardinal Health approved the 7 submission of this document to the D.C. Circuit 8 Court of Appeals? 9 MS. MAINIGI: Objection; form. 10 A. Yes. Cardinal Health approved this to 11 be filed. 12 Q. Now, if you go down to the next part, 13 you'll see where it says "But in certain recent 14 pronouncements." 15 Would you read that? 16 A. Yes. 17 Q. It says, "DEA has required distributors 18 not only to report suspicious orders, but to 19 investigate orders; as an example, interrogating 20 pharmacies and physicians and take action to halt 21 orders before they are filed. 22 Those added obligations would 23 significantly expand the report only duty of 24 distributors under the longstanding regulatory</p>

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<p>1 scheme and impose impractical obligations on 2 distributors."</p> <p>3 Does Cardinal Health agree or disagree 4 with that statement?</p> <p>5 MS. MAINIGI: Objection to form. 6 Objection; scope.</p> <p>7 A. Cardinal Health agrees that the 8 reporting obligation was a new obligation imposed 9 by -- sorry. I misspoke. The shipping obligation 10 was a new obligation imposed by the DEA which 11 Cardinal Health complied with once they were made 12 aware of it.</p> <p>13 Q. This is -- listen. This amicus brief 14 was submitted in what year?</p> <p>15 A. 2016, '17.</p> <p>16 Q. Okay. And what year did Cardinal Health 17 receive the shipping requirement Dear Registrant 18 letter?</p> <p>19 A. Initially in 2006.</p> <p>20 Q. So a decade earlier, correct?</p> <p>21 MS. MAINIGI: Objection to form.</p> <p>22 A. Correct.</p> <p>23 Q. This document submitted by Cardinal 24 Health's trade group seems to indicate a rejection</p>	<p>1 That's the position Cardinal Health was 2 taking through its trade group in June of 2016 -- 3 2017. That's not true, is it?</p> <p>4 MS. MAINIGI: Objection to form. 5 Objection to scope.</p> <p>6 A. It is true. There is nothing in the 7 regulation. The guidance provided by the DEA 8 provided the shipping requirements.</p> <p>9 Q. So, again, with the word games. 10 Go to the next provision. "There is no 11 prohibition on shipment of suspicious orders." 12 Does Cardinal Health agree with that?</p> <p>13 MS. MAINIGI: Objection to form. 14 Objection to scope.</p> <p>15 Q. Your lawyer is telling a West Virginia 16 federal court there is no duty. You're saying -- 17 your amicus brief is saying there is no duty. 18 Cardinal Health has been fined for a violation of 19 that duty, and yet you're saying you've been in 20 compliance with this since at least 2007.</p> <p>21 Is that your testimony today?</p> <p>22 MS. MAINIGI: Objection to form. 23 Objection; scope.</p> <p>24 A. There is no obligation in the statute</p>
<p style="text-align: center;">Page 199</p> <p>1 of the shipping requirement ten days before the 2 Masters Pharmaceutical case was released.</p> <p>3 MS. MAINIGI: Objection to form. 4 Objection; argumentative. Objection; scope.</p> <p>5 A. I believe when you read the brief in 6 total, it refers clearly to the 2006 DEA letters. 7 So the -- if there is an insinuation that they are 8 somehow saying that it's new then in 2016, '17, 9 that's not the -- that's not what the entire 10 letter says.</p> <p>11 Q. Well, let's go to page 9 where the brief 12 literally says, "Nothing" --</p> <p>13 MS. MAINIGI: Can you wait until she 14 gets to page 9, please?</p> <p>15 And then do you want to draw her 16 attention to where on page 9 you are?</p> <p>17 A. I'm on page 9.</p> <p>18 Q. I'll give you one hint to what I'm going 19 to read next. It's highlighted.</p> <p>20 A. Okay.</p> <p>21 Q. "Nothing in Sections 1301.72 to 1301.76 22 requires distributors to investigate the 23 legitimacy of orders or to halt shipment of any 24 orders deemed to be suspicious."</p>	<p style="text-align: center;">Page 201</p> <p>1 regarding the shipping requirement, but the 2 guidance provided by the DEA provided that, and 3 Cardinal Health has complied.</p> <p>4 Q. And the D.C. Circuit Court of Appeals 5 has affirmed the DEA's position, agreed?</p> <p>6 MS. MAINIGI: Objection. Outside the 7 scope.</p> <p>8 MR. FARRELL: It is not. It's actually 9 listed in the scope. I'll repeat the question. 10 BY MR. FARRELL:</p> <p>11 Q. The D.C. Circuit Court of Appeals in 12 Masters Pharmaceutical affirmed the position taken 13 by the DEA in its 2006 and 2007 Dear Registrant 14 letters --</p> <p>15 MS. MAINIGI: Objection.</p> <p>16 Q. -- agreed?</p> <p>17 MS. MAINIGI: Excuse me. Objection; 18 scope.</p> <p>19 A. It affirmed that there is a shipping 20 requirement.</p> <p>21 Q. So the answer to my question is yes?</p> <p>22 MS. MAINIGI: Objection; form. 23 Objection; scope.</p> <p>24 A. Yes. They affirmed there is a shipping</p>

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<p>1 requirement.</p> <p>2 Q. Now, you testified earlier that there</p> <p>3 were -- that the DEA told Cardinal Health that the</p> <p>4 duty was report only prior to 2006.</p> <p>5 Do you remember that testimony?</p> <p>6 A. I don't know that I said the DEA told</p> <p>7 us. It was our understanding that it was report</p> <p>8 only based on the guidance we had received from</p> <p>9 the DEA prior to 2006.</p> <p>10 Q. I've got to write that word down.</p> <p>11 Guidance.</p> <p>12 What guidance did you receive? Is it in</p> <p>13 writing somewhere?</p> <p>14 A. There's the 1998 DEA report to the</p> <p>15 Attorney General that speaks to the required</p> <p>16 reporting.</p> <p>17 Q. So wait a minute. You're relying upon a</p> <p>18 1998 letter to the Attorney General as the basis</p> <p>19 for compliance with your duty to prevent</p> <p>20 diversion, yes?</p> <p>21 MS. MAINIGI: Objection; scope.</p> <p>22 Objection; form.</p> <p>23 MR. FARRELL: Well, hold on. You can't</p> <p>24 object to the scope when she's relying on a 1998</p>	<p>1 A. I believe I answered this morning. I</p> <p>2 don't know specifically. I know the topic of the</p> <p>3 meeting was Internet pharmacies.</p> <p>4 Q. You're not aware of what the Internet</p> <p>5 pharmacies was, what they talked about, what the</p> <p>6 issue was?</p> <p>7 MS. MAINIGI: Objection; asked and</p> <p>8 answered.</p> <p>9 She discussed it this morning. I don't</p> <p>10 know if you were in the room or not when she did,</p> <p>11 because you might have been wandering in and out.</p> <p>12 MR. FARRELL: Ooh, that was a little</p> <p>13 catty.</p> <p>14 A. I can't recall all the specifics of the</p> <p>15 meeting, as I stated this morning.</p> <p>16 Q. All right. So let's -- then let's put</p> <p>17 it even broader.</p> <p>18 When is the earliest that you believe</p> <p>19 Cardinal Health had interactions with the DEA</p> <p>20 regarding diversion of controlled substances?</p> <p>21 MS. MAINIGI: Objection; scope.</p> <p>22 Objection; time period.</p> <p>23 A. I can't speak to all of the interactions</p> <p>24 that Cardinal Health had with the DEA. Again,</p>
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<p>1 document for her deposition today.</p> <p>2 MS. MAINIGI: I'm objecting to scope.</p> <p>3 BY MR. FARRELL:</p> <p>4 Q. So I'm asking you again. Other than the</p> <p>5 1998 letter, are there any other written documents</p> <p>6 that you rely upon as guidance that your duty was</p> <p>7 report only?</p> <p>8 A. At this time, I'm not aware of any</p> <p>9 specific other written documents.</p> <p>10 Q. Okay. This 1998 letter, who was it to</p> <p>11 and from?</p> <p>12 A. It wasn't a letter. It was a report by</p> <p>13 the DEA to the Attorney General.</p> <p>14 Q. Of the United States?</p> <p>15 A. Yes.</p> <p>16 MR. FARRELL: Well, don't huff. There's</p> <p>17 like 50 of them. You should know. They all sued</p> <p>18 you.</p> <p>19 BY MR. FARRELL:</p> <p>20 Q. You also talked about a 2005 meeting</p> <p>21 with the DEA regarding Internet pharmacies.</p> <p>22 A. Yes.</p> <p>23 Q. Was that related to diversion of</p> <p>24 controlled substances, including opioids?</p>	<p>1 pursuant to the 1998 DEA report to the Attorney</p> <p>2 General, that provided guidance to us as to what</p> <p>3 we were supposed to be doing regarding the</p> <p>4 reporting of controlled substances.</p> <p>5 Q. You paid a fine in 2008, correct?</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 A. We paid a settlement.</p> <p>8 Q. You paid a settlement in 2008, right?</p> <p>9 A. Yes.</p> <p>10 Q. Did it include conduct prior to '08, to</p> <p>11 the best of your knowledge?</p> <p>12 A. Without the document in front of me, I</p> <p>13 cannot be positive. I believe there were years</p> <p>14 referenced prior to 2008.</p> <p>15 Q. Okay. Because I haven't seen it, and</p> <p>16 one of the subject matters is Cardinal Health's</p> <p>17 interactions with the DEA. I'm trying to figure</p> <p>18 out if those interactions go prior to 2006. And</p> <p>19 what you're telling me is at a minimum, there's a</p> <p>20 1998 letter. Are you aware of anything else, any</p> <p>21 other meetings, presentations, documents?</p> <p>22 A. I'm not aware --</p> <p>23 MS. MAINIGI: Objection. Excuse me.</p> <p>24 Objection to form.</p>

<p style="text-align: right;">Page 206</p> <p>1 A. I'm not aware of anything specifically. 2 The company presently doesn't have that 3 information, but I can't say with any specificity. 4 Q. Since at least 2007, do you agree that 5 shipping a suspicious order without conducting due 6 diligence is unlawful? 7 MS. MAINIGI: Objection to form. 8 Objection; scope. 9 A. Shipping a suspicious order without 10 conducting due diligence, an order that has been 11 reported as suspicious without conducting due 12 diligence, does not comport with the guidance that 13 we've received from the DEA. 14 Q. So is shipping a suspicious order 15 illegal? 16 MS. MAINIGI: Objection to form. 17 Objection; scope. 18 A. It does not comply with the guidance 19 provided by the DEA. 20 Q. Does that make it illegal or unlawful? 21 MS. MAINIGI: Objection; form. 22 Objection; scope. 23 A. It does not comply with the guidance 24 provided by the DEA.</p>	<p style="text-align: right;">Page 208</p> <p>1 question." Right? 2 MS. MAINIGI: No. 3 MR. FARRELL: That's the wrong thing. 4 MS. MAINIGI: Let's see where your 5 question is pending. 6 Let's see. The last thing I believe you 7 said, "You're good. You've got this down. Let's 8 get to multiple choice since I can't get the 9 fill-in-the-blank." 10 I think that was the precursor to 11 something or other, but there's no question 12 pending, so I'd like to take a break. 13 MR. FARRELL: There is a question 14 pending, and so I'm going to object to breaking 15 while this subject matter is pending. 16 MS. MAINIGI: Okay. You can't object to 17 that. I would like to go off the record. 18 THE VIDEOGRAPHER: The time is now 2:32. 19 Going off the record. 20 (Recess taken.) 21 THE VIDEOGRAPHER: The time is now 2:54. 22 Back on the record. 23 MS. MAINIGI: Counsel, I did notify 24 Mr. Cohen of what we thought was inappropriate</p>
<p style="text-align: right;">Page 207</p> <p>1 Q. So let's play fill-in-the-blank. 2 Halting a suspicious order is? 3 MS. MAINIGI: Objection to form. 4 Objection; scope. 5 Q. Fill in the blank. 6 A. An obligation that Cardinal Health has 7 under the guidance provided by the DEA. 8 Q. You're good. I mean, you've got this 9 down. Let's get to -- let's get to a multiple 10 choice since I can't get the fill-in-the-blank. 11 MS. MAINIGI: You know what? I'd like 12 to take a break. 13 MR. FARRELL: Well, I'm almost done. 14 MS. MAINIGI: I'd like to take a break. 15 MR. FARRELL: Yeah, as soon as I finish 16 my question that's pending. Because if we break 17 right now, you can't talk to her -- 18 MS. MAINIGI: That's fine. 19 MR. FARRELL: -- while there's a 20 question pending. 21 MS. MAINIGI: I don't need to talk to 22 her. I don't think there's a question pending. 23 What is the question pending? 24 MR. FARRELL: She says, "Repeat the</p>	<p style="text-align: right;">Page 209</p> <p>1 behavior on your behalf. We are moving forward, 2 but I think he's available later if we feel the 3 need to engage him. 4 MR. FARRELL: Understood. 5 --- 6 (Cardinal-Norris Exhibit 18 marked.) 7 --- 8 BY MR. FARRELL: 9 Q. I'm going to have marked next which is 10 Plaintiff's Exhibit 18. It is Bates-stamped 11 ABDC_MDL_00278063. And I'm going to show it to 12 you and ask if you've seen this document before. 13 MS. MAINIGI: Counsel, did you receive 14 permission from ABDC to utilize this at the 15 deposition? 16 MR. FARRELL: I did not, nor do I think 17 I need to under 33M of the protective order. 18 MS. MAINIGI: Okay. We will check that 19 while you're questioning. I believe the process 20 at least is that you do need to get permission, 21 but we'll let you keep going for now, and if 22 there's a dispute about that, we'll take it up. 23 MR. FARRELL: It's marked as 24 confidential. And under 33M, what it states is</p>

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<p>1 that there are limitations on use, and one of the 2 exceptions is it can be used with in-house counsel 3 as well as parties.</p> <p>4 So my interpretation of the rule is 5 since this is an HDMA document, it isn't an 6 internal document from AmerisourceBergen or an 7 internal trade secret or proprietary information. 8 And, in fact, on page 2 of the document, it 9 indicates that Cardinal Health was a part of the 10 crisis executive committee.</p> <p>11 BY MR. FARRELL:</p> <p>12 Q. So if you want to take a minute to 13 review it, you can do so.</p> <p>14 MS. MAINIGI: Well, I'll certainly let 15 the witness review it, but we'll take your 16 position under advisement and let you keep going.</p> <p>17 Can you identify the year this document 18 is from?</p> <p>19 MR. FULLER: Only from metadata.</p> <p>20 MS. MAINIGI: And what did you conclude?</p> <p>21 MR. FULLER: April 25, 2013. It was an 22 attachment to an e-mail.</p> <p>23 BY MR. FARRELL:</p> <p>24 Q. I'm not going to spend a tremendous</p>	<p>1 A. Agreed.</p> <p>2 Q. On page 3, it identifies the objectives 3 of this Crisis Playbook, and would you read the 4 first two.</p> <p>5 A. "Provide clear" --</p> <p>6 MS. MAINIGI: Excuse me. Objection; scope.</p> <p>7 A. "Provide clear guidelines for 8 classifying crisis situations. Define roles and 9 responsibilities in a crisis situation."</p> <p>10 Q. And read the very last entry point.</p> <p>11 MS. MAINIGI: Objection; scope.</p> <p>12 A. "Have ready-to-use response materials on 13 hand for high risk scenarios."</p> <p>14 Q. Now, this was created in the year 2013, 15 and as Cardinal Health, are you familiar with it 16 at all?</p> <p>17 MS. MAINIGI: Objection; scope.</p> <p>18 A. I am not.</p> <p>19 Q. If you flip to page 4 where it says 20 "Communicate Early." Can you read that aloud?</p> <p>21 A. "Getting ahead of an issue, or getting 22 your message across as early as possible, is 23 always -- almost always the best way to minimize</p>
<p>1 amount of time on this document.</p> <p>2 A. That's fine. I'm sorry. I've never 3 seen this document before, so I'm not even clear 4 exactly what the purpose of it is. So I just 5 wanted to make sure I at least --</p> <p>6 Q. I'll walk you through some of the 7 highlights.</p> <p>8 Will you identify the title of this 9 document?</p> <p>10 A. The title on the front page is "Crisis 11 Playbook: An Interactive Guide to Crisis 12 Communications."</p> <p>13 Q. And it's published by whom?</p> <p>14 A. HDMA is listed on the front.</p> <p>15 Q. And, again, this is the trade 16 organization which includes as its members, and on 17 the executive committee, Cardinal Health?</p> <p>18 A. Yes.</p> <p>19 Q. And if you look on page 2, you'll notice 20 that the Core Crisis Team is identified, and it 21 appears to be internal employees of HDMA. And 22 underneath it is the executive committee, and at 23 the time, it identifies Mark -- or Mike Kaufmann 24 from Cardinal Health, agreed?</p>	<p>1 damage from a negative event."</p> <p>2 Q. And then over where it says "Express 3 emotion appropriately," would you read that aloud?</p> <p>4 A. "The public demands more than the letter 5 of the law or minimum adherence to regulations."</p> <p>6 Q. You understand that today I am 7 representing a number of different public entities 8 that are, in fact, demanding more than recitation 9 of your adherence to regulations?</p> <p>10 MS. MAINIGI: Objection; scope, if that 11 is a question.</p> <p>12 Q. The very thing that's in this crisis 13 plan management is what you've been repeating 14 today; would you agree with that?</p> <p>15 MS. MAINIGI: Objection; scope.</p> <p>16 Objection; form.</p> <p>17 A. I don't agree with that.</p> <p>18 Q. So we'll flip all the way over to page 19 12, Communications Approach.</p> <p>20 MS. MAINIGI: Can you give us the Bates 21 number, please --</p> <p>22 MR. FARRELL: I gave you my copy.</p> <p>23 MS. MAINIGI: -- because there's no page 24 numbers.</p>

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<p>1 THE WITNESS: I don't see a page number.</p> <p>2 MS. VELDMAN: 74 is the last four</p> <p>3 digits, 74.</p> <p>4 THE WITNESS: 74?</p> <p>5 MS. VELDMAN: The last two digits on the</p> <p>6 bottom.</p> <p>7 BY MR. FARRELL:</p> <p>8 Q. So as of 2013, this crisis management</p> <p>9 plan provided by HDMA to its members includes a</p> <p>10 consideration of being able to drive the narrative</p> <p>11 in a crisis.</p> <p>12 Do you see that?</p> <p>13 MS. MAINIGI: Objection; scope.</p> <p>14 A. I see a comment that says, "If you</p> <p>15 announce first, to what extent will you be able to</p> <p>16 drive the narrative?"</p> <p>17 Q. If you flip to the next page, you'll see</p> <p>18 in 2013, HDMA has already used this chart to run a</p> <p>19 risk analysis of the controlled substance</p> <p>20 diversion issue.</p> <p>21 Do you see that?</p> <p>22 MS. MAINIGI: Objection; scope.</p> <p>23 A. I see the bullet point.</p> <p>24 Q. Are you aware of whether or not HDMA</p>	<p>1 Objection; scope.</p> <p>2 A. I do not know.</p> <p>3 MR. FARRELL: Exhibit page 19?</p> <p>4 MS. VELDMAN: 81.</p> <p>5 BY MR. FARRELL:</p> <p>6 Q. The last three digits are 081,</p> <p>7 Third-Party Outreach. It says, "Identify</p> <p>8 potential third parties who could speak</p> <p>9 knowledgably about the issue by noting individuals</p> <p>10 or groups who have commented on the issue in news</p> <p>11 coverage, at conferences, or in published</p> <p>12 materials."</p> <p>13 Are you aware of any such coordinated</p> <p>14 activity?</p> <p>15 MS. MAINIGI: Objection; scope.</p> <p>16 A. I am not.</p> <p>17 MR. FARRELL: Exhibit page 24?</p> <p>18 MS. VELDMAN: 86.</p> <p>19 BY MR. FARRELL:</p> <p>20 Q. 086 on the Bates stamp. This Crisis</p> <p>21 Playbook identifies six issues related to</p> <p>22 diversion. If you flip to the next page, Scenario</p> <p>23 1 is a DEA Registration Suspension.</p> <p>24 A. I see "Scenario 1: DEA Registration</p>
<p style="text-align: center;">Page 215</p> <p>1 circulated to Cardinal Health bullet points to</p> <p>2 discuss diversion lawsuits or diversion issues?</p> <p>3 MS. MAINIGI: Objection; scope.</p> <p>4 A. I am not.</p> <p>5 Q. Flip to --</p> <p>6 MR. FARRELL: It's my 16.</p> <p>7 MS. VELDMAN: 16? On the top?</p> <p>8 MR. FARRELL: Yeah.</p> <p>9 MS. VELDMAN: Okay. 78.</p> <p>10 MS. MAINIGI: Thank you.</p> <p>11 BY MR. FARRELL:</p> <p>12 Q. On the last -- the page that's</p> <p>13 documented 078, Core Messaging. It says, "Draft</p> <p>14 topline messages, consisting of three to five</p> <p>15 message points that give an overview of the full</p> <p>16 narrative and that will likely be included in all</p> <p>17 communication materials."</p> <p>18 Are you aware of whether or not HDMA</p> <p>19 coordinated with its members, including the big</p> <p>20 three and those that are on the executive</p> <p>21 committee, to coordinate core messaging related to</p> <p>22 diversion or diversion lawsuits?</p> <p>23 A. I do not know.</p> <p>24 MS. MAINIGI: Objection. Excuse me.</p>	<p style="text-align: center;">Page 217</p> <p>1 Suspension."</p> <p>2 Q. So if, in fact, this document was</p> <p>3 created in 2013, this is after the DEA's attempt</p> <p>4 to revoke Cardinal Health's registration, agreed?</p> <p>5 MS. MAINIGI: Objection; scope.</p> <p>6 Objection; form.</p> <p>7 A. This is after the 2012 action taken by</p> <p>8 the DEA.</p> <p>9 Q. But before the 2016 fine assessed by the</p> <p>10 DEA?</p> <p>11 A. Before the 2016 settlement agreement,</p> <p>12 yes.</p> <p>13 Q. And at the top right-hand corner, what</p> <p>14 you'll see is one of the key considerations.</p> <p>15 Would you read that aloud?</p> <p>16 A. "Does this present an opportunity for</p> <p>17 HDMA to proactively push its message of</p> <p>18 misdirected DEA enforcement with national media."</p> <p>19 Q. Has Cardinal Health engaged in proactive</p> <p>20 efforts to shift the message toward misdirected</p> <p>21 DEA enforcement?</p> <p>22 MS. MAINIGI: Objection; scope.</p> <p>23 Objection; form.</p> <p>24 A. I do not recall specifically, no.</p>

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<p>1 Q. If, in fact, Cardinal Health has in the 2 past intervening five years attempted to direct 3 blame toward the DEA, you would agree that it 4 happens to coincide with the 2013 playbook?</p> <p>5 MS. MAINIGI: Objection; scope.</p> <p>6 Objection; form.</p> <p>7 A. Just because HDMA published a playbook 8 that I know Mike Kaufmann was on the executive 9 committee does not mean that that's necessarily 10 how Cardinal Health handled its communications 11 related to the issue at hand.</p> <p>12 Q. If you flip to the next page, "Scenario 13 1: DEA Registration Suspension," there's a "Tough 14 Q&A" question. So this is a playbook that HDMA, 15 your trade group, circulated amongst its members, 16 including Cardinal Health, and it's how to react 17 in the media if one of your members gets its 18 registration suspended.</p> <p>19 And one of the tough questions it was 20 prepping its members for is, if it's asked, "What 21 is HDMA's perspective on the registration 22 suspension? Was this action warranted?"</p> <p>23 Would you read the next sentence?</p> <p>24 MS. MAINIGI: Objection; scope.</p>	<p>1 highlighted portion that states, "Although 2 distributors do not dispense drugs directly to 3 patients and do not have" --</p> <p>4 MS. MAINIGI: There's nothing 5 highlighted. I'm sorry to interrupt, but you said 6 look at the highlighted. We don't see anything 7 highlighted.</p> <p>8 A. I see the sentence that begins "Although 9 distributors."</p> <p>10 Q. We lost our screen somehow, so let me 11 just read it out loud. "Although distributors do 12 not dispense drugs directly to patients and do not 13 have access to individual patient information, we 14 share a common goal with doctors, pharmacists, 15 manufacturers, law enforcement, and policymakers 16 to ensure a safe and sufficient supply of 17 medicines for patients in need while keeping 18 prescription drugs out of the hands of individuals 19 who abuse them."</p> <p>20 This is a 2013 statement that mimics a 21 very good amount of the things you've been saying 22 here today, doesn't it?</p> <p>23 MS. MAINIGI: Objection; form.</p> <p>24 Objection; scope. Objection; argumentative.</p>
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<p>1 Objection; form.</p> <p>2 A. "HDMA is not familiar with the 3 particulars of this situation, but we are 4 disappointed that the DEA appears to be pursuing a 5 path of conflict rather than collaboration with 6 our industry."</p> <p>7 Q. So, again, in 2013, this is HDMA 8 advising its constituents, including Cardinal 9 Health, to push the message that the DEA's 10 enforcement actions are paths of conflict rather 11 than collaboration?</p> <p>12 MS. MAINIGI: Objection; scope.</p> <p>13 Objection; form.</p> <p>14 A. It's providing guidance to the HDMA 15 members that the HDMA members can then choose to 16 use at their discretion.</p> <p>17 MR. FARRELL: Exhibit page 28?</p> <p>18 MS. VELDMAN: 90.</p> <p>19 BY MR. FARRELL:</p> <p>20 Q. 090 Bates stamp page. Literally this is 21 a scenario in 2013 on how its members, including 22 Cardinal Health, should respond in the media to 23 lawsuits on diversion. And if you look over on 24 the right-hand side of the draft statement, the</p>	<p>1 A. This language is generally aligned with 2 the understanding that Cardinal Health has a 3 certain obligation in the supply chain, and it 4 follows the statute, regulations, guidance that 5 govern that.</p> <p>6 Q. And if you flip to the next page. The 7 second sentence of the second paragraph is 8 literally what you just said. It says, "We can 9 tell you that our members are registered with the 10 DEA and follow rigorous statutory and regulatory 11 requirements to detect and prevent diversion."</p> <p>12 Do you see that?</p> <p>13 MS. MAINIGI: Objection; scope.</p> <p>14 A. No. I'm sorry. I don't see it. Which 15 paragraph?</p> <p>16 Q. It's the second full paragraph in the 17 left-hand column, the second sentence. "We can 18 tell you ..."</p> <p>19 A. And I'm sorry. What was your question?</p> <p>20 Q. That's literally what you've been saying 21 all day today, and it's written in the 2013 crisis 22 handbook.</p> <p>23 MS. MAINIGI: Objection; form.</p> <p>24 Objection; argumentative. Objection; scope.</p>

<p style="text-align: right;">Page 222</p> <p>1 A. Okay.</p> <p>2 Q. And if you flip to 32.</p> <p>3 MS. VELDMAN: Page 94 on the bottom.</p> <p>4 MR. FARRELL: Mine doesn't have a Bates</p> <p>5 stamp.</p> <p>6 THE VIDEOGRAPHER: Okay. Page 94.</p> <p>7 MS. MAINIGI: 91?</p> <p>8 THE WITNESS: 94.</p> <p>9 MS. VELDMAN: 094.</p> <p>10 MS. MAINIGI: Okay.</p> <p>11 BY MR. FARRELL:</p> <p>12 Q. 094.</p> <p>13 A. Yes.</p> <p>14 Q. So what is Scenario 4 that HDMA is</p> <p>15 preparing for back in 2013?</p> <p>16 MS. MAINIGI: Objection; scope.</p> <p>17 A. The title of the page is "Scenario 4:</p> <p>18 Congressional Inquiry."</p> <p>19 Q. So five years before Congress subpoenaed</p> <p>20 Cardinal Health, McKesson, AmerisourceBergen, H.D.</p> <p>21 Smith and Miami-Lukens, HDMA was ahead of the wave</p> <p>22 and already prepping and preparing and advising</p> <p>23 for media statements regarding a Congressional</p> <p>24 inquiry.</p>	<p style="text-align: right;">Page 224</p> <p>1 A. And I'm sorry. Which question are you</p> <p>2 looking at?</p> <p>3 Q. The very first question. And I'm going</p> <p>4 to direct your attention to the answer. And this</p> <p>5 will be my hand-off point to Mr. Fuller to go back</p> <p>6 to -- it's a perfect transition.</p> <p>7 It states in the second full sentence of</p> <p>8 the second paragraph, "Every distributor must</p> <p>9 monitor suspicious orders and report to the DEA if</p> <p>10 it appears a pharmacy's controlled substances</p> <p>11 volume or pattern of ordering might signal</p> <p>12 diversion."</p> <p>13 So, again, in 2013, this is what the</p> <p>14 HDMA, your trade group, is advising you to do or</p> <p>15 what to say about your duties if asked by</p> <p>16 Congress, agreed?</p> <p>17 MS. MAINIGI: Objection; form, scope,</p> <p>18 argumentative.</p> <p>19 A. It's guidance they provided. If we're</p> <p>20 testifying in front of Congress, we'll say what we</p> <p>21 actually do.</p> <p>22 - - -</p> <p>23 CROSS-EXAMINATION (CONT'D.)</p> <p>24</p>
<p style="text-align: right;">Page 223</p> <p>1 Do you agree with that?</p> <p>2 MS. MAINIGI: Objection; argumentative.</p> <p>3 Objection; form. Objection; scope.</p> <p>4 A. The document covers Congressional</p> <p>5 inquiry. And, again, it's guidance to be provided</p> <p>6 to the members that the members can use at their</p> <p>7 discretion.</p> <p>8 Q. Five years before Congress had an</p> <p>9 inquiry?</p> <p>10 MS. MAINIGI: Objection; form.</p> <p>11 Objection; scope. Objection; argumentative.</p> <p>12 A. Yes, five years prior to the inquiry</p> <p>13 you're referencing.</p> <p>14 Q. Now, under "Tough Q&A," there's a</p> <p>15 question and then the second full sentence that</p> <p>16 starts "Every distributor."</p> <p>17 MS. MAINIGI: Can you tell us where you</p> <p>18 are?</p> <p>19 MS. VELDMAN: It's 095.</p> <p>20 MR. FARRELL: It's the same page.</p> <p>21 MS. MAINIGI: No, it's a different page.</p> <p>22 MS. VELDMAN: It's 095.</p> <p>23 MR. FARRELL: Did I flip pages? Oh,</p> <p>24 yeah, she's right. 095.</p>	<p style="text-align: right;">Page 225</p> <p>1 BY MR. FULLER:</p> <p>2 Q. All right, Ms. Norris. Then let's talk</p> <p>3 about what you guys actually did.</p> <p>4 Cardinal is required to have a</p> <p>5 suspicious order monitoring program; is that</p> <p>6 correct?</p> <p>7 A. Cardinal is required to report</p> <p>8 suspicious orders, and then as clarified and</p> <p>9 promulgated in the 2006-'07 Rannazzisi letters, to</p> <p>10 not ship the suspicious orders.</p> <p>11 Q. Is Cardinal required to have a</p> <p>12 suspicious order monitoring program?</p> <p>13 A. Cardinal Health is required --</p> <p>14 Q. No, I know the suspicious order</p> <p>15 requirement. I'm talking about a suspicious order</p> <p>16 monitoring program. Is Cardinal Health required</p> <p>17 to have one?</p> <p>18 MS. MAINIGI: Objection; form.</p> <p>19 A. Cardinal Health is required to comply</p> <p>20 with the statute that it is to report suspicious</p> <p>21 orders. If it designs a program called suspicious</p> <p>22 order monitoring system, that's the method in</p> <p>23 which we're complying with our obligation to --</p> <p>24 part of the way we're complying with our</p>

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<p>1 obligation to report the suspicious orders as 2 required by the statute -- the regulation. Sorry. 3 Q. Does Cardinal have a suspicious order 4 monitoring program? 5 A. It does. 6 Q. And when did it first create it? 7 MS. MAINIGI: Objection; time period. 8 A. Cardinal Health has had a suspicious 9 order monitoring system specifically since about 10 2007. 11 Q. So prior to 2007, Cardinal Health did 12 not have a specific suspicious order monitoring 13 program -- 14 MS. MAINIGI: Object. 15 Q. -- is that correct? 16 MS. MAINIGI: Excuse me. Objection; 17 form. 18 A. Cardinal Health maintained the program 19 as it understood as directed by the DEA to report 20 the orders pursuant to the ingredient limit 21 reports we talked about this morning, as well as 22 the excessive order reports. But as far as an 23 electronic suspicious order monitoring system, our 24 program evolved in 2007 to include that.</p>	<p>1 reports, the ingredient limit reports, the ARCOS 2 reports, the excessive limit reports. Again, the 3 ingredient limit report and ARCOS reports were 4 electronic. Beginning in 2007, as the program 5 evolved, we developed the actual electronic order 6 monitoring of our customers. 7 Q. Okay. 8 - - - 9 (Cardinal-Norris Exhibit 19 marked.) 10 - - - 11 Q. So Norris 62 -- I'm sorry it's so big 12 and bulky, but it is what it is. It's now going 13 to be marked as Plaintiff's Number 19. 14 MR. FULLER: Right? 15 BY MR. FULLER: 16 Q. 19. And have you seen this document 17 before? 18 A. Yes. I believe this is the document 19 I've seen. 20 MR. FULLER: Okay. And for the record, 21 it is CAH_MDL_PRIORPROD_DEA07_01383895. 22 - - - 23 (Cardinal-Norris Exhibit 20 marked.) 24 - - -</p>
<p style="text-align: center;">Page 227</p> <p>1 Q. So prior to 2007, Cardinal was not 2 monitoring suspicious orders electronically; can 3 we agree on that? 4 A. No. Cardinal Health -- the reports were 5 generated electronically, the ingredient limit 6 reports, as well as the ARCOS reports actually, 7 but -- 8 (Reporter clarification.) 9 A. As well as the ARCOS reports. So they 10 were produced electronically. 11 Q. You mentioned "the ARCOS reports." 12 Those are basically data dumps into the DEA of the 13 ARCOS required data; is that correct? 14 A. Those are the -- 15 MS. MAINIGI: Excuse me. Objection; 16 form and scope. 17 A. Those are the reports that we are 18 required to submit by the DEA, which we do. 19 Q. Let me ask it a little differently. 20 So prior to 2007, there was no system 21 for electronically monitoring or analyzing orders, 22 correct? 23 MS. MAINIGI: Objection. 24 A. Prior to 2007, we were submitting the</p>	<p style="text-align: center;">Page 229</p> <p>1 MR. FULLER: Now I'm going to hand 2 counsel what is Norris Exhibit 63, Plaintiff's 3 Exhibit Number 20, which for the record has a 4 Bates number similar. Although, it's 5 HOUSE_0002197. 6 BY MR. FULLER: 7 Q. I'm going to try to simplify things just 8 a little bit. If you'll flip to page 43 of the 9 book, which is Number 19. Is that the same as 10 what I've handed you as Plaintiff's Exhibit Number 11 20? 12 MS. MAINIGI: 43 of the manual? 13 MR. FULLER: It looks more like a book 14 to me. 15 A. It doesn't look to be exactly the same. 16 This has 71 in the bottom, not 51. I believe what 17 you're actually looking for is page 144. 18 Q. I'm sorry. 19 A. That would match what you provided me 20 separately. 21 Q. Help me out where you're at. 22 A. Page 144 of the manual you provided to 23 me actually matches with the excerpt you provided 24 separately as Exhibit 20.</p>

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<p>1 Q. Yes. All right. And this -- thank you.</p> <p>2 And this manual, did Cardinal create this?</p> <p>3 A. To the best of my knowledge, yes.</p> <p>4 Q. It wasn't created by the DEA, to your</p> <p>5 knowledge?</p> <p>6 A. I don't believe so. Although, DEA --</p> <p>7 references to DEA regulations are included in the</p> <p>8 manual.</p> <p>9 Q. Certainly. And this was created in, I</p> <p>10 think you said what, 2000?</p> <p>11 A. The date on the bottom is 4/ or 5/2000.</p> <p>12 I do not know if that is the creation date.</p> <p>13 There's multiple dates. For instance, I see 1995,</p> <p>14 1999, 1998, 1995. So I actually don't know when</p> <p>15 the manual was created as a whole.</p> <p>16 Q. And is it your understanding that this</p> <p>17 was the policy and procedure, suspicious order</p> <p>18 monitoring manual, whatever you want to call it,</p> <p>19 that was in place for Cardinal from approximately</p> <p>20 April of 2000 until sometime in 2006?</p> <p>21 A. Are you referring to the excerpt?</p> <p>22 Q. Yes, ma'am. We can refer to it either</p> <p>23 way, whether --</p> <p>24 A. Well, I just wanted to make sure you</p>	<p>1 refer to this document as?</p> <p>2 MS. MAINIGI: Objection; form.</p> <p>3 Q. And we'll go with this one.</p> <p>4 A. This is our DEA compliance manual.</p> <p>5 Q. Okay. And is it the equivalent of the</p> <p>6 standard operating procedures or the policies and</p> <p>7 procedures that Cardinal had in place from</p> <p>8 approximately April of 2000 until sometime in</p> <p>9 2006?</p> <p>10 MS. MAINIGI: Objection; time period.</p> <p>11 Objection; form.</p> <p>12 A. I believe there is a later version</p> <p>13 before 2006 of, for example, this required reports</p> <p>14 to the DEA. But beginning in 2000 until the later</p> <p>15 version came into effect, this was the --</p> <p>16 Q. And when do you believe that later</p> <p>17 version was?</p> <p>18 A. I believe it was 2005.</p> <p>19 Q. And do you recollect -- have you</p> <p>20 reviewed that document?</p> <p>21 A. I have reviewed the -- yes, I have --</p> <p>22 and specifically the excerpt related to required</p> <p>23 reports to DEA. I believe at that point, it's</p> <p>24 more clearly labeled SOP or policy and procedure,</p>
<p style="text-align: center;">Page 231</p> <p>1 weren't referring to something else in the manual.</p> <p>2 Q. No, ma'am. Either the excerpt or the</p> <p>3 pages that are the same in the manual.</p> <p>4 A. This is our required reports to the DEA.</p> <p>5 At this time it was a report only requirement, and</p> <p>6 this is -- this is what represented our</p> <p>7 requirements under that.</p> <p>8 Q. Sure. And I'm trying to find out</p> <p>9 what -- and you call them SOPs, right, standard</p> <p>10 operating procedures?</p> <p>11 A. Call what SOPs?</p> <p>12 Q. Policies and procedures that you have</p> <p>13 within Cardinal.</p> <p>14 MS. MAINIGI: Objection; form.</p> <p>15 Q. Do you not refer to them as SOPs?</p> <p>16 MS. MAINIGI: Objection; form.</p> <p>17 A. I guess sometimes we do.</p> <p>18 Q. Okay.</p> <p>19 A. Yeah.</p> <p>20 Q. Because the more recent ones have -- say</p> <p>21 SOP?</p> <p>22 A. I believe so, yes.</p> <p>23 Q. Okay. So what do you guys refer to</p> <p>24 this -- and I say "you guys." What does Cardinal</p>	<p style="text-align: center;">Page 233</p> <p>1 something like that.</p> <p>2 Q. Okay. So then this was in place from</p> <p>3 2000 until sometime during 2005?</p> <p>4 MS. MAINIGI: Objection; time period.</p> <p>5 A. This particular provision, yes.</p> <p>6 Q. This manual?</p> <p>7 A. Again, the entire manual has other dates</p> <p>8 that predate 2000, so -- and I don't know if,</p> <p>9 like, this particular provision -- I'm sorry. I</p> <p>10 know the record can't see me showing it. The</p> <p>11 excerpt required reports to the DEA like that. I</p> <p>12 know that there's a particular later policy on</p> <p>13 that, 2005-ish. I don't know as to all of the</p> <p>14 other pieces of this manual.</p> <p>15 Q. Fair enough. As it relates to what</p> <p>16 we're talking about, suspicious order, controlled</p> <p>17 substance monitoring, we know this excerpt is what</p> <p>18 was in place from 2000 until approximately 2005?</p> <p>19 MS. MAINIGI: Objection; time period.</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And it's Cardinal's position</p> <p>22 during this time frame that they only had a</p> <p>23 reporting requirement, not a shipping requirement,</p> <p>24 correct?</p>

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<p>1 A. That is correct. The guidance we'd 2 received from the DEA was report only. 3 MR. FULLER: Next we'll mark 21 and 22. 4 - - - 5 (Cardinal-Norris Exhibits 21 and 22 marked.) 6 - - - 7 MR. FULLER: All right. 21 for the 8 record is going to be Norris 61, Norris 61. And 9 it's going to be, again, Plaintiff's Exhibit 10 Number 21. It's got a Bates number on it -- I'm 11 going to shorten it -- DEA07_01188323. 12 Exhibit 22 is going to be Norris 67, 13 Gina. And it's DEA07_01188147.</p> <p>14 BY MR. FULLER:</p> <p>15 Q. And on the standard operating procedures 16 manual that I've now marked 21 -- and I think you 17 have a subpart of that as 22; is that right? I 18 think the subpart comes from about page 86.</p> <p>19 MS. MAINIGI: Is 22 a subpart of 21? 20 MR. FULLER: I believe so, but we're 21 going to make sure.</p> <p>22 MS. MAINIGI: That's the question. 23 A. Yes, that appears to be correct. 24 Q. Okay. And I'm going to combine this</p>	<p>1 Q. If you're spending three weeks, I 2 suspect you did. 3 And Exhibit 22 is signed off on and 4 approved by who? 5 A. Steve Reardon. 6 Q. And who is Steve Reardon? 7 A. He's listed as our vice president, 8 quality and regulatory affairs. 9 Q. Now, is it Cardinal's position at this 10 point in time that it was still just a reporting 11 requirement, no shipping requirement? 12 A. Yes. 13 Q. Did Cardinal have at this point in time 14 a suspicious order monitoring program? 15 A. Cardinal Health had the anti-diversion 16 program in place at the time that I've previously 17 discussed that required reports to the DEA, as 18 well as the -- the ARCOS, the ingredient limit 19 reports, the excessive order reports, and that was 20 our obligation pursuant to reporting of suspicious 21 orders, as we understood it, from the DEA. 22 Q. And if you turn to -- and, again, I'm on 23 Exhibit 22. Turn to page 5, down there near the 24 bottom, Number 5.</p>
<p>1 question for 19, 20, 21, and 22. You have 2 reviewed all these documents before, correct, 3 prior to coming here today? 4 A. I have. 5 Q. These appear to be a duplicate copy of 6 what you reviewed, correct? 7 A. They do. 8 Q. Okay. These are -- whether you want to 9 refer to them as policies and procedures or 10 standard operating procedures, which this one 11 says, they are documents that Cardinal maintained 12 in the normal course of business; is that true? 13 MS. MAINIGI: Objection; form. 14 A. Yes. 15 Q. And, to your knowledge, these are fair 16 and accurate representations of what was in place 17 at the time, correct? 18 A. To my knowledge. 19 Q. Now, you mentioned an '05, and I haven't 20 seen an '05, and that's why I wanted to try to 21 clarify with Exhibit 22. 22 A. I apologize. It's '06. 23 Q. Okay. 24 A. I looked at a lot of documents.</p>	<p>1 A. Yes. 2 Q. Now, does that set out what Cardinal 3 believed to be its suspicious order obligation at 4 that time? 5 A. Yes. 6 Q. Then around the 2005-2006 time frame, 7 Cardinal Health had an issue arise in New York, 8 correct? 9 MS. MAINIGI: Objection to form. 10 A. Can you be more specific? 11 Q. Yes, ma'am. The New York Attorney 12 General brought an action against Cardinal related 13 to secondary sources for medication, as well as 14 potential diversion; is that right? 15 A. Yes, I believe potential price 16 diversion. 17 Q. And that agreement, let me ask, was 18 actually executed I'll represent to you in 19 December of '06, but the investigation began in 20 2005. 21 In February 2006, Cardinal puts in place 22 a new anti-diversion compliance policy. Do you 23 see that? Oh, I'm sorry. It's Norris 57. 24 - - -</p>

<p style="text-align: right;">Page 238</p> <p>1 (Cardinal-Norris Exhibit 23 marked.) 2 - - - 3 A. I see that that's the title of it. Can 4 you give me a second to review it? I've not seen 5 this particular policy. 6 Q. And I'll apologize. I tried to print 7 off with the Bates number at the bottom, but I 8 wasn't competent to do that. 9 MS. MAINIGI: Is this from our 10 production? 11 MR. FULLER: Yes, ma'am. 12 MS. MAINIGI: Okay. 13 MR. FULLER: And as I just mentioned, I 14 apologize, I couldn't get it to print with a Bates 15 number. 16 Ms. Wadhwani, this is the one you 17 pointed out to me some time ago. 18 A. Okay. 19 Q. So this anti-diversion compliance policy 20 was enacted in February of 2006; is that correct? 21 A. Yes. 22 Q. And this is another policy and procedure 23 that Cardinal keeps in the normal course of 24 business?</p>	<p style="text-align: right;">Page 240</p> <p>1 Q. The price diversion is someone buying at 2 a discounted rate from Cardinal and turning around 3 and selling them on the open market at a higher 4 price, right? 5 MS. MAINIGI: Objection; form and scope. 6 A. Correct. 7 Q. Now, it still leaves open the issue of 8 diversion; does it not? 9 MS. MAINIGI: Objection; form. 10 A. I don't know what you mean by "open." 11 At this time, we still have our policy in place 12 regarding our required reporting to the DEA to 13 comply with our obligations under the controlled 14 substance regulations and guidance. 15 - - - 16 (Cardinal-Norris Exhibit 24 marked.) 17 - - - 18 Q. Yes, ma'am. And when we talk about -- 19 well, let's just move to it. 20 Here's that New York agreement. And, 21 again, this was not produced. At least the copy I 22 pulled was pulled off the Internet. And it's 23 Norris 30. 24 In your review and preparation, have you</p>
<p style="text-align: right;">Page 239</p> <p>1 A. Yes. 2 Q. And I'll represent to you it was 3 provided by counsel related to some prior 4 productions, okay? 5 A. Okay. 6 Q. And you had indicated you have not seen 7 this one prior to today; is that correct? 8 A. I don't believe so. I don't recall 9 seeing this particular one. 10 Q. And it is for basically exclusively 11 closed-door pharmacies; is that right? 12 A. Yes. 13 Q. The issue with closed-door pharmacies 14 was price diversion; is that correct? 15 A. That is correct. 16 MS. MAINIGI: Objection; form. 17 Q. And in -- 18 A. Correct. 19 MR. FULLER: I'm sorry. 20 MS. MAINIGI: Objection; form. Sorry. 21 Objection; form. Objection; scope. 22 Go ahead. 23 A. That is correct. That's my 24 understanding, yes.</p>	<p style="text-align: right;">Page 241</p> <p>1 seen this agreement before? 2 A. In my review and preparation, no. 3 Q. But you were yet aware of it, correct? 4 A. Yes. 5 Q. Why didn't you review this document? 6 MS. MAINIGI: Objection; scope and 7 perhaps privileged. 8 Q. Don't need to tell me anything counsel 9 said. I'm not concerned about that. Let me ask 10 it differently. 11 How did you know about this? 12 A. Because I worked at Cardinal Health 13 during this time period in the pharmaceutical 14 distribution business and was aware of the issue. 15 Q. Okay. And this is an issue where the 16 Office of the Attorney General began investigation 17 in 2005 focusing on the secondary market for 18 pharmaceuticals; is that correct? 19 MS. MAINIGI: Objection; form. 20 A. Generally speaking, yes. 21 Q. Well, I hope so, because I read it from 22 the first two lines there. 23 Do you see that? 24 A. Again, I haven't seen the document,</p>

<p style="text-align: right;">Page 242</p> <p>1 so -- in my preparation.</p> <p>2 MS. MAINIGI: Do you want her to review</p> <p>3 it?</p> <p>4 A. If you can give me a minute, I can</p> <p>5 familiarize myself with it.</p> <p>6 Q. Well, I'll just ask you questions, and</p> <p>7 if you need to take the time, you can take the</p> <p>8 time then, okay?</p> <p>9 A. We'll start with the first question, and</p> <p>10 we'll go from there.</p> <p>11 Q. Fair enough. Fair enough.</p> <p>12 You mentioned you were involved. What</p> <p>13 was your involvement in this -- related to this</p> <p>14 issue, this potential investigation by the New</p> <p>15 York Attorney General?</p> <p>16 A. As a commercial attorney in the</p> <p>17 pharmaceutical distribution business that works</p> <p>18 with -- that was working with hospital and</p> <p>19 closed-door pharmacies -- that was part of the</p> <p>20 customer group that I supported -- I was aware of</p> <p>21 the issue, and then ultimately was aware of the</p> <p>22 policies, procedures we put in place. I don't</p> <p>23 recall seeing this specific policy, but aware of</p> <p>24 what we committed to the Attorney General that we</p>	<p style="text-align: right;">Page 244</p> <p>1 absolutely. Go ahead.</p> <p>2 A. Just I want to make sure I'm familiar.</p> <p>3 MR. FULLER: Why don't we take a break</p> <p>4 and let you read that. We've been going for a</p> <p>5 while now.</p> <p>6 THE VIDEOGRAPHER: The time is now 3:49.</p> <p>7 Going off the record.</p> <p>8 (Recess taken.)</p> <p>9 THE VIDEOGRAPHER: Okay. The time is</p> <p>10 now 4:05. Back on the record.</p> <p>11 MS. MAINIGI: Mr. Fuller, Ms. Norris has</p> <p>12 one clarification that she would like to put on</p> <p>13 the record.</p> <p>14 MR. FULLER: Okay.</p> <p>15 THE WITNESS: I just want to make sure</p> <p>16 that I was clear, because I think we were using</p> <p>17 "suspicious order monitoring system" and</p> <p>18 "suspicious order monitoring program" somewhat</p> <p>19 interchangeably, and those are two different</p> <p>20 things.</p> <p>21 Cardinal Health has had a suspicious</p> <p>22 order monitoring program in place since the</p> <p>23 inception of the statute, which imposed the</p> <p>24 requirements on us to monitor for suspicious</p>
<p style="text-align: right;">Page 243</p> <p>1 would do going forward.</p> <p>2 Q. Okay. And there's two issues raised in</p> <p>3 this agreement, is that correct, broad</p> <p>4 picture-wise?</p> <p>5 MS. MAINIGI: Objection; scope.</p> <p>6 Objection; form.</p> <p>7 I think you've got to give her a chance</p> <p>8 to read the agreement if you want her to answer</p> <p>9 that question.</p> <p>10 Q. Okay. Let me just ask it differently.</p> <p>11 You're aware, are you not, that this -- the</p> <p>12 concerns that the New York Attorney General had</p> <p>13 was one with obtaining substances from alternate</p> <p>14 source vendors, correct?</p> <p>15 MS. MAINIGI: Objection; scope and form.</p> <p>16 Go ahead.</p> <p>17 A. Generally.</p> <p>18 Q. And then potentially diversion as well,</p> <p>19 correct?</p> <p>20 A. Price diversion.</p> <p>21 MS. MAINIGI: Objection; form and scope.</p> <p>22 A. Can you give me a minute now before we</p> <p>23 get too far down into the questions?</p> <p>24 Q. If you want to take the time,</p>	<p style="text-align: right;">Page 245</p> <p>1 orders.</p> <p>2 Q. And does that include the documents that</p> <p>3 we looked at, or is that a separate --</p> <p>4 A. That's part -- you mean the compliance</p> <p>5 policies and procedures, the reporting</p> <p>6 requirements?</p> <p>7 Q. Yes, ma'am. I'm not sure what you want</p> <p>8 to call them. I think it's 19, 21 -- 19, 20, 21,</p> <p>9 and 22.</p> <p>10 A. Those detailed --</p> <p>11 Q. The suspicious ordering monitoring</p> <p>12 programs?</p> <p>13 A. Yes.</p> <p>14 Q. Was there anything else that was sent</p> <p>15 out in the suspicious order monitoring programs</p> <p>16 other than what's in those documents? Are there</p> <p>17 other documents that set out this, quote, unquote,</p> <p>18 program?</p> <p>19 A. Not to my knowledge during that time</p> <p>20 period.</p> <p>21 Q. And these documents were in place up</p> <p>22 until the -- I think the 2006 document we looked</p> <p>23 at; is that right?</p> <p>24 A. They were -- the second packet was dated</p>

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<p>1 2006.</p> <p>2 Q. Okay. Correct. So are there any other</p> <p>3 documents out there that would set out what</p> <p>4 Cardinal's suspicious order monitoring system or</p> <p>5 program was that you are aware of?</p> <p>6 A. The suspicious order monitoring program,</p> <p>7 not that I'm aware of, no.</p> <p>8 Q. Now, how about the suspicious order</p> <p>9 monitoring systems?</p> <p>10 A. When I refer to the suspicious order</p> <p>11 monitoring system, I'm referring to the</p> <p>12 enhancement to the program that we made in the</p> <p>13 2007 time frame, the electronic order monitoring</p> <p>14 program with thresholds.</p> <p>15 Q. Okay. So prior to 2007 or whenever this</p> <p>16 new upgrade was rolled out, Cardinal did not</p> <p>17 monitor thresholds, correct?</p> <p>18 A. We didn't call them thresholds, but the</p> <p>19 ingredient limit reports acted like a threshold.</p> <p>20 When the customer purchased the amount as</p> <p>21 indicated by the DEA that they wanted reported, we</p> <p>22 reported it, and we had the ingredient -- I'm</p> <p>23 sorry -- the excessive limit reports which were</p> <p>24 guided somewhat in part by dosage limit charts</p>	<p>1 alternative source vendors or AVS [sic].</p> <p>2 "As one Cardinal employee wrote in a</p> <p>3 2001 e-mail to colleagues worried about risks of</p> <p>4 the AVS [sic] market, the firm 'must understand</p> <p>5 the need not to kill the golden goose, ASV, who is</p> <p>6 laying the golden eggs."</p> <p>7 Do you know, because you were involved</p> <p>8 to some degree with this, what risks he was</p> <p>9 referring to?</p> <p>10 MS. MAINIGI: Objection; form.</p> <p>11 Objection; scope.</p> <p>12 A. I do not --</p> <p>13 MS. MAINIGI: Objection; time period.</p> <p>14 A. I do not know.</p> <p>15 Q. Okay. If you'll go to page 4.</p> <p>16 A. Yes.</p> <p>17 Q. And there in paragraph 11, it talks</p> <p>18 about "Cardinal repeatedly sold pharmaceuticals to</p> <p>19 customers that it knew or should have known were</p> <p>20 diverting pharmaceuticals."</p> <p>21 Correct?</p> <p>22 A. The sentence says that. It's talking</p> <p>23 about price diversion.</p> <p>24 Q. Okay. And paragraph 12, "Similarly,</p>
<p>1 that were posted in our cages and vaults that gave</p> <p>2 guidance to appropriate amounts of the particular</p> <p>3 drugs listed that should be ordered by that type</p> <p>4 of customer.</p> <p>5 Q. Okay. Have you had a chance to review</p> <p>6 the document that we were looking at?</p> <p>7 A. Yes, generally.</p> <p>8 Q. Okay. And if you go to page 2.</p> <p>9 A. Yes.</p> <p>10 Q. Paragraph 2.</p> <p>11 A. Yes.</p> <p>12 Q. It says, "Cardinal is one of three</p> <p>13 primary distributors of pharmaceuticals in the</p> <p>14 United States."</p> <p>15 That's correct? Cardinal</p> <p>16 AmerisourceBergen, and McKesson. Would you agree</p> <p>17 with that?</p> <p>18 A. The three you listed are the three</p> <p>19 largest distributors in the market.</p> <p>20 Q. And it says, "Up until the end of the</p> <p>21 practice in December of '05, or 2005, Cardinal,</p> <p>22 like the other national full-line distributors,</p> <p>23 bought and sold drugs in the secondary market</p> <p>24 buying from and selling to wholesalers known as</p>	<p>1 starting in January of '03 -- or 2003, Cardinal</p> <p>2 was alerted that its customers in the Carrington</p> <p>3 network of closed-door pharmacies were diverting</p> <p>4 drugs."</p> <p>5 Do you see that?</p> <p>6 A. I see that. Again, referring to price</p> <p>7 diversion, yes.</p> <p>8 Q. And ultimately Carrington ended up under</p> <p>9 criminal investigation, correct?</p> <p>10 MS. MAINIGI: Objection; scope.</p> <p>11 Objection; form.</p> <p>12 A. I see the note or the statement that</p> <p>13 Carrington was under criminal investigation, yes.</p> <p>14 - - -</p> <p>15 (Cardinal-Norris Exhibit 26 marked.)</p> <p>16 - - -</p> <p>17 Q. This is Norris 66 and Plaintiff's</p> <p>18 Exhibit Number 26.</p> <p>19 Ms. Norris, have you seen this document</p> <p>20 prior to today?</p> <p>21 A. I have.</p> <p>22 Q. And this is Cardinal's Anti-Diversion -</p> <p>23 Know Your Customer Compliance Manual; is that</p> <p>24 correct?</p>

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<p>1 A. Yes. That's what it's labeled.</p> <p>2 Q. And this was enacted in -- approximately</p> <p>3 sometime in 2006; is that accurate?</p> <p>4 A. I believe the effective date is</p> <p>5 November 1, 2006 --</p> <p>6 Q. Okay.</p> <p>7 A. -- on page 66.</p> <p>8 Q. And are you aware whether Cardinal had a</p> <p>9 prior Know Your Customer Compliance Manual?</p> <p>10 A. Specifically titled that, I don't know.</p> <p>11 Q. Do you know of any type of Know Your</p> <p>12 Customer Compliance Manual, whether it was titled</p> <p>13 that or not?</p> <p>14 A. I know that part of what we were doing</p> <p>15 prior to this time period was ensuring that we</p> <p>16 obtained the license and verified the address of</p> <p>17 the customers that we were selling to as was</p> <p>18 required.</p> <p>19 Q. Right. I'm just asking if there was an</p> <p>20 earlier manual.</p> <p>21 A. I don't know.</p> <p>22 Q. And now I think we're going to get into</p> <p>23 what you were talking about earlier, some of</p> <p>24 these -- and let me ask you on 26, I know you</p>	<p>1 AG_0000344 for the record.</p> <p>2 Again, is this a policy and procedure</p> <p>3 that's kept in the normal course?</p> <p>4 A. Yes.</p> <p>5 Q. And this was actually created or</p> <p>6 implemented or the issue date is December 22nd of</p> <p>7 2008?</p> <p>8 A. That is the issue date according to the</p> <p>9 document.</p> <p>10 Q. And these reports were provided to the</p> <p>11 sales personnel, correct?</p> <p>12 A. The Highlight Reports?</p> <p>13 Q. Yes, ma'am.</p> <p>14 A. Yes.</p> <p>15 Q. And it would warn the sales personnel</p> <p>16 about increases in customers' ordering practices;</p> <p>17 is that right?</p> <p>18 A. It would notify the salesperson when the</p> <p>19 customer was approaching a certain level of their</p> <p>20 threshold.</p> <p>21 Q. Would these reports also be provided to</p> <p>22 the QRA, quality regulatory -- I think it's</p> <p>23 assurance committee that you guys have?</p> <p>24 A. The committee? I don't know what</p>
<p style="text-align: center;">Page 251</p> <p>1 mentioned you reviewed that. Is that a document</p> <p>2 that Cardinal usually keeps in the normal course</p> <p>3 of business?</p> <p>4 A. Yes.</p> <p>5 Q. And it's a policy and procedure that</p> <p>6 applied across Cardinal nationwide; is that right?</p> <p>7 A. To our pharmaceutical distribution</p> <p>8 business, yes.</p> <p>9 Q. And according to you, it appears to be a</p> <p>10 true and accurate copy of what you reviewed prior</p> <p>11 to today?</p> <p>12 A. Yes.</p> <p>13 ---</p> <p>14 (Cardinal-Norris Exhibit 27 marked.)</p> <p>15 ---</p> <p>16 Q. Okay. Now, going on to Number 27. 33.</p> <p>17 Norris 33 is going to be Plaintiff's Exhibit</p> <p>18 Number 27.</p> <p>19 This is another policy and procedure,</p> <p>20 correct? Highlight Report - Sales?</p> <p>21 A. Yes.</p> <p>22 Q. Is this something that would also be</p> <p>23 provided to the -- strike that.</p> <p>24 The Bates number on the bottom, it's</p>	<p style="text-align: center;">Page 253</p> <p>1 committee you're referring to.</p> <p>2 Q. Yeah, the quality regulatory group.</p> <p>3 A. The quality regulatory group?</p> <p>4 Q. Yes, ma'am.</p> <p>5 A. That's the group that's producing the</p> <p>6 report.</p> <p>7 Q. So they created all these policies and</p> <p>8 procedures then, correct?</p> <p>9 MS. MAINIGI: Objection; form.</p> <p>10 A. "They" being?</p> <p>11 Q. QRA.</p> <p>12 A. The anti-diversion team within QRA --</p> <p>13 Q. Okay.</p> <p>14 A. -- but they're also QRA.</p> <p>15 Q. Got it. I apologize.</p> <p>16 A. That's all right. I just want to make</p> <p>17 sure I'm understanding your questions.</p> <p>18 Q. Were there additional policies and</p> <p>19 procedures that got created and implemented in</p> <p>20 2012?</p> <p>21 MS. MAINIGI: Objection; form.</p> <p>22 Q. I'll strike that. That's a bad</p> <p>23 question.</p> <p>24 MR. FULLER: This is 37.</p>

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<p>1 ---</p> <p>2 (Cardinal-Norris Exhibit 28 marked.)</p> <p>3 ---</p> <p>4 BY MR. FULLER:</p> <p>5 Q. This is going to be Plaintiff's Exhibit</p> <p>6 Number 28, AG_0000154. This is a policy and</p> <p>7 procedure related to detecting or reporting</p> <p>8 suspicious orders and responding to threshold</p> <p>9 events.</p> <p>10 Do you see that?</p> <p>11 A. I see that's the title.</p> <p>12 Q. And the purpose of this? Read the</p> <p>13 purpose to us, please.</p> <p>14 A. "The purpose of this standard operating</p> <p>15 procedure is to provide guidance to Cardinal</p> <p>16 Health employees in the Quality and Regulatory</p> <p>17 Affairs section on responding, detecting, and</p> <p>18 reporting suspicious orders and processing,</p> <p>19 documenting, and making judgments about threshold</p> <p>20 events, including making decisions about releasing</p> <p>21 or cutting orders that are suspicious or exceed a</p> <p>22 threshold."</p> <p>23 Q. Okay. And if you go back to page 37 --</p> <p>24 or excuse me. Page 4.</p>	<p>1 Q. You had small, medium, and large, and it</p> <p>2 was based on dollar volume; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. You had different types of operations,</p> <p>5 whether it was retail chain or independent</p> <p>6 hospitals, nursing homes, whatever the case may</p> <p>7 be, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Now, somehow, if you're going to be</p> <p>10 comparing them on a cross-section, there's got to</p> <p>11 be a way we determine which ones we're comparing</p> <p>12 to whom; is that true?</p> <p>13 A. Yes. Although, I think you're somewhat</p> <p>14 mixing two time periods through the evolution of</p> <p>15 our program. The small, medium, large and class</p> <p>16 of trade designations for determining thresholds</p> <p>17 was during the 2008 to 2012 period.</p> <p>18 Q. Okay.</p> <p>19 A. After 2012, so we're talking that's I</p> <p>20 believe the date of this particular policy is</p> <p>21 June 2012 --</p> <p>22 Q. Yes, ma'am.</p> <p>23 A. -- we've gone to -- I don't know how</p> <p>24 else to explain this.</p>
<p style="text-align: center;">Page 255</p> <p>1 A. Yes.</p> <p>2 Q. 6.15, do you see that, "Unusual -- or</p> <p>3 excuse me -- "Orders of unusual size are</p> <p>4 significantly larger than the orders normally</p> <p>5 placed by the customer or by the customers that</p> <p>6 have a size and type of business that is similar</p> <p>7 to the ordering customer's business."</p> <p>8 A. I see that language, yes.</p> <p>9 Q. Would Cardinal compare the ordering</p> <p>10 customer to other similarly situated customers in</p> <p>11 determining whether there was orders of abnormal</p> <p>12 size and frequency and pattern?</p> <p>13 A. That is one of the items of comparison.</p> <p>14 Q. So did Cardinal actually do that,</p> <p>15 though?</p> <p>16 MS. MAINIGI: Objection; form.</p> <p>17 A. Yes.</p> <p>18 Q. And how did it make the determination of</p> <p>19 what similarly situated customers it was going to</p> <p>20 compare these customers to?</p> <p>21 And let's sort of break it down a little</p> <p>22 bit. You guys classified customers in different</p> <p>23 categories, correct?</p> <p>24 A. We did.</p>	<p style="text-align: center;">Page 257</p> <p>1 We've gone to a program where each</p> <p>2 customer's orders are displayed on a chart that --</p> <p>3 where other customer orders are of that same</p> <p>4 product to determine whether that particular order</p> <p>5 is an outlier.</p> <p>6 Q. Okay. So how do we pick the other</p> <p>7 customers that are going on that chart? Say we've</p> <p>8 got XYZ Company. How do we pick the other</p> <p>9 customers that go on the chart with that</p> <p>10 particular drugstore pharmacy?</p> <p>11 A. I don't remember that particular detail.</p> <p>12 Q. But somehow that's being done, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And Cardinal recognizes that's a way --</p> <p>15 or one thing to look at when evaluating orders of</p> <p>16 unusual size, pattern, and frequency?</p> <p>17 A. That is one thing to look at, yes.</p> <p>18 Q. And it's your testimony that Cardinal</p> <p>19 did do that?</p> <p>20 A. That is one thing that we looked at,</p> <p>21 where they compared to other customers.</p> <p>22 Q. And did it also compare them to other</p> <p>23 customers prior to 2012?</p> <p>24 A. Yes. But then we set -- each customer</p>

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<p>1 had an individual threshold based on the 2 comparisons and then the particular factors 3 applicable to that customer. 4 Q. So after 2012, did we get rid of the 5 independent thresholds? 6 A. No. We still have independent 7 thresholds. 8 Q. Okay. So, again, my question is, did we 9 compare them to like customers prior to 2012? And 10 the answer I believe, if I understood you, is yes, 11 we did? 12 A. Comparing them to like customers was one 13 of the ways that we set the threshold. 14 Q. And if you go over to page 5, it's 15 6.2.1.1. "When the QRA personnel determines that 16 an order will be released because the personnel 17 has found that the drugs are likely to be 18 diverted, the personnel must ensure that the 19 reasons for releasing the order and relevant 20 information considered have been recorded prior to 21 releasing the order." 22 Do you see that? 23 A. I see that. 24 Q. Did I read it correctly?</p>	<p>1 a threshold? 2 A. Correct. 3 Q. And if we're not doing that, we're not 4 fulfilling our obligation under this policy and 5 procedure, correct? 6 A. We would not be in compliance with the 7 policy if we're not doing what the policy says. 8 Q. And if we're not doing our due diligence 9 and we're shipping and cutting -- or excuse me -- 10 shipping and releasing orders they're going to 11 flag as suspicious, we wouldn't be complying with 12 the law either, correct? 13 MS. MAINIGI: Objection to scope. 14 Objection; form. 15 A. We wouldn't be complying with our 16 policy, and we would not be complying with the 17 obligation under the statute and the relevant 18 guidance that the DEA has provided that orders 19 identified as suspicious should not be shipped. 20 Q. So does that mean we'd be breaking the 21 law? 22 MS. MAINIGI: Objection; scope. 23 Objection; form. 24 A. We would be violating our obligation</p>
<p style="text-align: center;">Page 259</p> <p>1 A. That is what the paper says. I don't 2 think it's accurate. 3 Q. It should be "When the QRA personnel 4 determines that the order will be released because 5 the personnel has found that the drugs are not 6 likely to be diverted," correct? 7 A. I believe so. 8 Q. Okay. 9 A. Yes. 10 Q. You believe that just to be a 11 typographical error, or we have just solved the 12 opioid epidemic? 13 A. I believe that that's a typo. 14 Q. Nobody else apparently thought that was 15 as funny as I did. 16 MS. MAINIGI: I'll just note for the 17 record it's possible this is a draft, because if 18 you look at the bottom of each one of the pages, 19 it certainly doesn't look like a document right 20 now that is in final form. 21 Q. So before we release an order, we have 22 to make sure we have documentation presumptively 23 in some sort of diligence file, or due diligence 24 file, before we release it, correct, if it exceeds</p>	<p style="text-align: center;">Page 261</p> <p>1 under the applicable law and guidance. 2 Q. So is that the same as breaking the law, 3 or is that different? 4 MS. MAINIGI: Objection; form. 5 Objection; scope. 6 A. If you're insinuating it's something 7 different, then -- no, it's not the same, but if 8 we do not perform our obligations under -- we're 9 required to obligate -- we required to perform our 10 obligations pursuant to the law. 11 (Discussion held off the record.) 12 MR. FULLER: I'm going to provide a 13 thumb drive to the court reporter. This is what 14 we used with Ms. Justice previously. 15 - - - 16 (Cardinal-Norris Exhibit 30 marked.) 17 - - - 18 MS. MAINIGI: What do you want us to do 19 with that? 20 MR. FULLER: You can hold it. I'm just 21 giving you a copy of what the witness is going to 22 see. 23 BY MR. FULLER: 24 Q. And what we've done, Ms. Norris, is</p>

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<p>1 we've been provided with the --</p> <p>2 MR. FULLER: You can read it on the</p> <p>3 flight home.</p> <p>4 BY MR. FULLER:</p> <p>5 Q. We've taken the detailed distribution</p> <p>6 information that we've been provided by</p> <p>7 Cardinal --</p> <p>8 MS. MAINIGI: What topic does this</p> <p>9 relate to?</p> <p>10 MR. FULLER: Complying with the policies</p> <p>11 and procedures and how they interpret them.</p> <p>12 MS. MAINIGI: I'm sorry. Which topic?</p> <p>13 Are you on Notice 1 or Notice 2?</p> <p>14 MR. FULLER: That would be somewhere on</p> <p>15 Notice 1.</p> <p>16 BY MR. FULLER:</p> <p>17 Q. So what we have there --</p> <p>18 MS. MAINIGI: So, Counsel -- I'm sorry</p> <p>19 to keep interrupting you, but is this West</p> <p>20 Virginia distribution data? Because I don't</p> <p>21 understand how this is in within the geographic</p> <p>22 scope of what's currently allowed to be questioned</p> <p>23 on or where it is in the topics.</p> <p>24 MR. FULLER: Okay. So this is Summit</p>	<p>1 And what we did is we overlaid the</p> <p>2 suspicious order reports that were provided to us</p> <p>3 by your counsel as well. I want to say it's Bates</p> <p>4 numbers 12, 13, and 14 of the specific production</p> <p>5 in this case.</p> <p>6 MR. FULLER: And, Counsel, for your</p> <p>7 benefit, also included on the thumb drive. Okay.</p> <p>8 BY MR. FULLER:</p> <p>9 Q. And what I've done is I've had the guys</p> <p>10 who've worked with the ARCos data for us create a</p> <p>11 code so I could basically have a numeric value for</p> <p>12 the suspicious order plugged in, you know, bring</p> <p>13 up that suspicious order and then substitute the</p> <p>14 shipments of that same drug family.</p> <p>15 BY MR. FULLER:</p> <p>16 Q. And you would agree with me, would you</p> <p>17 not, that based on the thresholds in the policies</p> <p>18 and procedures that we've looked at, that once an</p> <p>19 entity hits its threshold and has a threshold</p> <p>20 event, it can no longer ship that drug family to</p> <p>21 that same customer, drugstore, or pharmacy,</p> <p>22 correct?</p> <p>23 MS. MAINIGI: Objection; form.</p> <p>24 Go ahead.</p>
<p>1 and Cuyahoga County.</p> <p>2 MS. MAINIGI: Okay. And so these are --</p> <p>3 MR. FULLER: So it's not West Virginia.</p> <p>4 MS. MAINIGI: This is Notice 2, and it's</p> <p>5 the CT-1 specific topics then? Because we agreed</p> <p>6 we would do those --</p> <p>7 MR. FULLER: Yes. It's application of</p> <p>8 the policies and procedures we've just been</p> <p>9 talking about.</p> <p>10 MS. MAINIGI: Okay. So if it relates to</p> <p>11 the Notice 2, CT-1 specific topics --</p> <p>12 MR. FULLER: No. It would fall under</p> <p>13 CT-1 related to the policies and procedures that</p> <p>14 were in place, the standard operating procedures.</p> <p>15 And I want to see if I'm understanding what the</p> <p>16 witness has testified to.</p> <p>17 MS. MAINIGI: Okay. Well, we'll wait</p> <p>18 for the question.</p> <p>19 BY MR. FULLER:</p> <p>20 Q. All right. So what you see in front of</p> <p>21 you, Ms. Norris, is the detailed distribution</p> <p>22 data -- now that they've changed the screen on</p> <p>23 us -- was the detailed distribution data for</p> <p>24 Cuyahoga and Summit Counties.</p>	<p>1 A. During the applicable monthly accrual</p> <p>2 cycle.</p> <p>3 Q. Correct.</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 MR. FULLER: So if you'll plug in Number</p> <p>7 43 for me. Actually, hold on.</p> <p>8 (Discussion held off the record.)</p> <p>9 MR. FULLER: Yeah, so plug in 43.</p> <p>10 MS. MAINIGI: Do you have a hard copy of</p> <p>11 this?</p> <p>12 MR. FULLER: Of this big 'ole</p> <p>13 spreadsheet? No.</p> <p>14 MS. MAINIGI: Or any part of it that</p> <p>15 you're intending to ask her about?</p> <p>16 MR. FULLER: No. I'm attaching the</p> <p>17 thumb drive as the page saver.</p> <p>18 If you'll click on the purple display.</p> <p>19 BY MR. FULLER:</p> <p>20 Q. So this is Ritzman Pharmacy 101</p> <p>21 located --</p> <p>22 MS. MAINIGI: What's the name of the</p> <p>23 pharmacy?</p> <p>24 MR. FULLER: R-i-t-z-m-a-n Pharmacy.</p>

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<p>1 BY MR. FULLER:</p> <p>2 Q. Located at 1323 Copley Road, Akron,</p> <p>3 Ohio, which I'll tell you is in Summit County,</p> <p>4 West -- I was going to say West Virginia -- Ohio.</p> <p>5 A. I think it's actually Copley Road, but</p> <p>6 yeah.</p> <p>7 Q. I'll take your word on it. And this</p> <p>8 facility had --</p> <p>9 MR. FULLER: If you'll scroll over to</p> <p>10 the right some to the date.</p> <p>11 Q. -- had a threshold event --</p> <p>12 MS. VELDMAN: Right here?</p> <p>13 MR. FULLER: Yep.</p> <p>14 BY MR. FULLER:</p> <p>15 Q. -- on January 21st of '14.</p> <p>16 A. I lost the highlighting.</p> <p>17 Q. Yeah. It moved where we were in the</p> <p>18 document.</p> <p>19 MS. VELDMAN: All right. Hold on.</p> <p>20 MR. FULLER: There you go. Now just</p> <p>21 slide it over.</p> <p>22 BY MR. FULLER:</p> <p>23 Q. January 21st of '14. Do you see that?</p> <p>24 A. January 21st, 2014.</p>	<p>1 simply on this information, because I don't know</p> <p>2 when this customer's monthly accrual ended, and</p> <p>3 that would -- you know, the orders on the 21st</p> <p>4 were cut, not shipped.</p> <p>5 Q. Correct.</p> <p>6 A. And then if the customer started their</p> <p>7 new accrual period on the 22nd, that wouldn't be</p> <p>8 documented in this system. It wouldn't be a</p> <p>9 threshold event because they're starting their new</p> <p>10 monthly accrual period, as an example of this</p> <p>11 data.</p> <p>12 Q. Right. And that's one explanation,</p> <p>13 correct, as to why these may have shipped on the</p> <p>14 22nd?</p> <p>15 MS. MAINIGI: Objection; form.</p> <p>16 Objection; scope.</p> <p>17 A. That is an explanation that occurs to me</p> <p>18 from looking at this data, yes.</p> <p>19 Q. Another explanation is we could have had</p> <p>20 a threshold increase, right?</p> <p>21 MS. MAINIGI: Objection; form.</p> <p>22 Objection; scope.</p> <p>23 A. We could have, yes.</p> <p>24 Q. Now, there's a procedure to go through</p>
<p style="text-align: center;">Page 267</p> <p>1 Q. And it apparently had numerous orders</p> <p>2 that breached a threshold number.</p> <p>3 Do you see the blue highlights there,</p> <p>4 oxycodone?</p> <p>5 A. Yes.</p> <p>6 Q. And then on January 22nd, we see more</p> <p>7 shipments going to this facility for</p> <p>8 hydrocodone -- or excuse me -- oxycodone, correct?</p> <p>9 A. The line right below the blue part?</p> <p>10 Q. Yes, ma'am.</p> <p>11 A. Yes.</p> <p>12 Q. You see we have a quantity ordered and a</p> <p>13 quantity shipped of 12 on January 22nd?</p> <p>14 A. Yes.</p> <p>15 Q. And then on January 23rd, we actually</p> <p>16 have three different orders for three different</p> <p>17 amounts of oxycodone.</p> <p>18 The way you described our system to</p> <p>19 us -- or Cardinal's system to us, is that should</p> <p>20 not happen unless there's a reason to release them</p> <p>21 and it's been documented in the diligence file,</p> <p>22 correct?</p> <p>23 MS. MAINIGI: Objection.</p> <p>24 A. Well, I don't know that I can say based</p>	<p style="text-align: center;">Page 269</p> <p>1 for a threshold increase, and that would have to</p> <p>2 be something that was documented; is that correct?</p> <p>3 MS. MAINIGI: Objection; form.</p> <p>4 A. Yes.</p> <p>5 Q. Okay. What type of things generate or</p> <p>6 cause a threshold increase? Are you aware?</p> <p>7 A. I am aware of some of them, yes.</p> <p>8 Q. What type of things would cause or be a</p> <p>9 legitimate threshold increase?</p> <p>10 A. The customer's business could change.</p> <p>11 For example, they have a hospital nextdoor that</p> <p>12 had 100 beds. They open up a wing that has an</p> <p>13 additional 400 beds. They open up a cancer</p> <p>14 center. There's another type of doctor office</p> <p>15 that opens down the street, for example.</p> <p>16 Q. So some change in the business climate</p> <p>17 or the operations? Maybe another pharmacy down</p> <p>18 the road went out of business?</p> <p>19 A. Yes.</p> <p>20 Q. That would be a legitimate reason to</p> <p>21 increase a threshold, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Something like Thanksgiving wouldn't</p> <p>24 necessarily be a legitimate reason to increase a</p>

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<p>1 threshold, would it?</p> <p>2 MS. MAINIGI: Objection; scope.</p> <p>3 A. There was a period of time --</p> <p>4 Q. Go ahead.</p> <p>5 A. There was a period of time -- and I'm</p> <p>6 thinking of a specific example in the information</p> <p>7 that I reviewed -- that based on how many, for</p> <p>8 example, Mondays and Tuesdays are in a month,</p> <p>9 whether there's a holiday in a month, for example,</p> <p>10 Thanksgiving, that could affect the customer's</p> <p>11 ordering pattern for that month.</p> <p>12 And I believe it was explained in Nick</p> <p>13 Rousch's declaration that there might be a</p> <p>14 threshold increase to account for that for that</p> <p>15 month.</p> <p>16 Q. And then the threshold would have to be</p> <p>17 reduced back down presumptively, correct? It</p> <p>18 wouldn't be a permanent increase?</p> <p>19 A. That would be my presumption, because it</p> <p>20 was reflecting very specific circumstances.</p>	<p>1 more copies of it -- what I've been provided is a</p> <p>2 custodial file.</p> <p>3 MS. MAINIGI: Are you representing this</p> <p>4 is the entire custodial file that you were</p> <p>5 provided?</p> <p>6 MR. FULLER: It is what I was able to</p> <p>7 find and what you guys produced. And when you</p> <p>8 produced them, you didn't separate them out in any</p> <p>9 way, so I pulled it together the best I can. And</p> <p>10 if you want to at the end, we can go through all</p> <p>11 the different Bates numbers that are there. But</p> <p>12 for the record, the first page of this composite</p> <p>13 exhibit is CAH_MDL_2804_00001537.</p> <p>14 BY MR. FULLER:</p> <p>15 Q. And I've looked through it. And you can</p> <p>16 look through it as well. But I will represent to</p> <p>17 you I did not see any indication for this</p> <p>18 December 19th of 2014 event.</p> <p>19 Now, granted, we should see, if there</p> <p>20 was some sort of cutting or -- excuse me -- of</p> <p>21 releasing this order or threshold increase, we</p> <p>22 should see this document in the diligence file; is</p> <p>23 that correct?</p> <p>24 MS. MAINIGI: Objection; form.</p>
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<p>1 BY MR. FULLER:</p> <p>2 Q. And this is a New Choice Pharmacy,</p> <p>3 23rd Street, Cuyahoga Falls, Ohio.</p> <p>4 Do you see that?</p> <p>5 A. I see one line highlighted, yes.</p> <p>6 Q. Okay. And that I'll represent to you is</p> <p>7 the suspicious order -- or excuse me -- the</p> <p>8 threshold event.</p> <p>9 MR. FULLER: If you'll go over to the</p> <p>10 date.</p> <p>11 BY MR. FULLER:</p> <p>12 Q. This is December 19th of 2014. And,</p> <p>13 again, oxycodone, an order is cut on the 19th.</p> <p>14 Then on the 19th, 22nd, 23rd, we have a bunch of</p> <p>15 orders filled for oxycodone.</p> <p>16 Do you see that?</p> <p>17 MS. MAINIGI: Objection; form.</p> <p>18 Objection; scope.</p> <p>19 A. I see that, yes.</p> <p>20 ---</p> <p>21 (Cardinal-Norris Exhibit 29 marked.)</p> <p>22 ---</p> <p>23 MR. FULLER: And I'll attach as</p> <p>24 Plaintiff's Exhibit Number 29 -- and there's two</p>	<p>1 Objection; scope.</p> <p>2 MR. FULLER: Sure.</p> <p>3 MS. MAINIGI: I was waiting for him to</p> <p>4 actually finish his paragraph long sentence.</p> <p>5 BY MR. FULLER:</p> <p>6 Q. Go ahead.</p> <p>7 A. I don't, again, know from the</p> <p>8 information provided here that there was a</p> <p>9 threshold increase. The customer ordered 18.</p> <p>10 That breached the threshold. I don't know by how</p> <p>11 much, because then the customer only ordered six</p> <p>12 later that day. If the sixth was under the</p> <p>13 customer's threshold, that would have gone through</p> <p>14 as not creating a threshold event. Again, I don't</p> <p>15 know how much they were over their threshold with</p> <p>16 the 18, order of 18, based on the information</p> <p>17 here.</p> <p>18 Q. Okay. So my question is that we have</p> <p>19 this threshold event. We're going to halt all</p> <p>20 orders. Now you're telling me if they hadn't</p> <p>21 reached -- if there was some gap in what they</p> <p>22 ordered in their threshold, they could still fill</p> <p>23 that gap, right?</p> <p>24 MS. MAINIGI: Objection; form.</p>

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<p>1 Objection; scope.</p> <p>2 A. Yes.</p> <p>3 Q. If there is no gap and we're shipping</p> <p>4 additional orders of the same oxycodone to this</p> <p>5 pharmacy, we should see some sort of documented</p> <p>6 explanation in their diligence file; is that</p> <p>7 correct?</p> <p>8 MS. MAINIGI: Objection; form.</p> <p>9 A. Unless -- not necessarily, because then</p> <p>10 perhaps their accrual period started over.</p> <p>11 Q. I'll give you that. Absolutely. But</p> <p>12 based on the policy and procedure we read earlier,</p> <p>13 if we're releasing that order, we need to document</p> <p>14 why we're releasing it, correct?</p> <p>15 MS. MAINIGI: Objection; form.</p> <p>16 A. If the order exceeds the threshold and</p> <p>17 we release the order, if we release the order,</p> <p>18 there would be documentation, yes.</p> <p>19 Q. You expect to see that in -- whatever</p> <p>20 customer it is, in their diligence file, correct?</p> <p>21 MS. MAINIGI: Objection; form.</p> <p>22 A. Yes.</p> <p>23 Q. Okay.</p> <p>24 A. There is a note about a threshold</p>	<p>1 think, Plaintiff's Exhibit 29; is that correct?</p> <p>2 A. 20--</p> <p>3 Q. 29?</p> <p>4 A. It says 25.</p> <p>5 Q. Does it have a sticker that says 25 on</p> <p>6 it?</p> <p>7 A. Yes.</p> <p>8 MS. MAINIGI: Yes.</p> <p>9 A. The document you handed to me just</p> <p>10 before break is labeled 25.</p> <p>11 Q. Okay. Well, let's go with that. 25 it</p> <p>12 is.</p> <p>13 A. Okay.</p> <p>14 Q. And you've seen this document before?</p> <p>15 A. I have.</p> <p>16 Q. And you know this to be the Memorandum</p> <p>17 of Agreement between the United States Department</p> <p>18 of Justice, the DEA, and Cardinal Health, correct?</p> <p>19 A. Yes. The Settlement and Release</p> <p>20 Agreement and Administrative Memorandum of</p> <p>21 Agreement, yes.</p> <p>22 Q. And for the record, it's</p> <p>23 CAH_MDL_PRIORPROD_HOUSE_0004009. And this</p> <p>24 included allegations related to several of</p>
<p>1 increase in the file, by the way.</p> <p>2 Q. On that date?</p> <p>3 A. No, not on that date. Just generally.</p> <p>4 Q. Yeah, I know. I saw others, but ...</p> <p>5 A. Can we take a break --</p> <p>6 MS. MAINIGI: Sure.</p> <p>7 A. -- maybe before we start --</p> <p>8 MS. MAINIGI: Yeah.</p> <p>9 Q. Sure.</p> <p>10 A. Can we do that before we start --</p> <p>11 Q. Absolutely, yes, ma'am.</p> <p>12 THE VIDEOGRAPHER: The time is now 4:46.</p> <p>13 Going off the record.</p> <p>14 (Recess taken.)</p> <p>15 THE VIDEOGRAPHER: Okay. The time is</p> <p>16 now 5:02. Back on the record.</p> <p>17 MR. FULLER: Where's that thumb drive?</p> <p>18 We're going to attach that thumb drive as</p> <p>19 Plaintiff's Exhibit 30.</p> <p>20 - - -</p> <p>21 (Cardinal-Norris Exhibit 25 marked.)</p> <p>22 - - -</p> <p>23 BY MR. FULLER:</p> <p>24 Q. Now, Ms. Norris, you have before you, I</p>	<p>1 Cardinal's facilities; is that right?</p> <p>2 A. Allegations, yes.</p> <p>3 Q. Against the Auburn, Washington</p> <p>4 distribution center, the Lakeland, Florida</p> <p>5 distribution center, the Swedesboro, New Jersey</p> <p>6 distribution center, the Dublin Court and</p> <p>7 Stafford, Texas distribution center, the McDonough</p> <p>8 facility in Georgia, the Valencia facility in</p> <p>9 California, the Denver facility in Colorado; is</p> <p>10 that correct?</p> <p>11 A. Those are the facilities listed, yes.</p> <p>12 Q. And Cardinal -- well, strike that.</p> <p>13 The allegations were that Cardinal was</p> <p>14 shipping suspicious orders, correct?</p> <p>15 A. The allegation in Number 8 is that</p> <p>16 Cardinal Health failed to report suspicious</p> <p>17 orders.</p> <p>18 Q. And then if you'll turn to -- and along</p> <p>19 with this -- and you've -- strike that.</p> <p>20 This document, you understand, is kept</p> <p>21 in the normal course there at Cardinal. You've</p> <p>22 reviewed it prior to today, and it appears to be</p> <p>23 accurate and complete; is that fair?</p> <p>24 MS. MAINIGI: Objection to form.</p>

<p style="text-align: right;">Page 278</p> <p>1 A. This document I'm looking at right now, 2 I don't understand what you mean by "kept in the 3 normal course of business."</p> <p>4 Q. Cardinal maintains it. They have it in 5 their filing system somewhere, correct?</p> <p>6 MS. MAINIGI: Objection to form.</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And it appears to be accurate and 9 complete compared to the one that you previously 10 reviewed prior to today; is that correct?</p> <p>11 A. It does, yes.</p> <p>12 Q. Okay. And if you'll turn to page 21. 13 Because you're also aware that there were 14 immediate suspension orders issued to each of 15 these facilities as well, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And on page 21, we have I believe it's 18 page 2 of the Lakeland, Florida distribution 19 center immediate suspension order; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. And it says -- right above the diagram, 22 it says, "Retail pharmacies in Florida order an 23 average of less than 8,400 dosage units of 24 hydrocodone per month."</p>	<p style="text-align: right;">Page 280</p> <p>1 correct?</p> <p>2 A. It was the allegation that was made.</p> <p>3 Q. I'm asking you if you agree or disagree 4 with it.</p> <p>5 MS. MAINIGI: Objection; scope.</p> <p>6 A. Cardinal Health made no admission 7 related to the allegation.</p> <p>8 Q. It denied the allegations, didn't it?</p> <p>9 A. It made no admission related to the 10 allegation.</p> <p>11 Q. Do you know whether Cardinal denied the 12 allegations? And if you don't know, just say you 13 don't know. That's fine by me.</p> <p>14 A. Cardinal Health made no admission 15 related to the allegations.</p> <p>16 Q. Do you know whether Cardinal Health 17 denied the allegations?</p> <p>18 MS. MAINIGI: Objection; asked and 19 answered.</p> <p>20 A. Cardinal Health made no admission 21 related to the allegations that were made.</p> <p>22 Q. All right. Let's look at the first one. 23 Medipharm-Rx, Inc. Monthly average -- 24 understanding that the average for pharmacies in</p>
<p style="text-align: right;">Page 279</p> <p>1 Do you see that?</p> <p>2 A. I see that sentence.</p> <p>3 Q. And hydrocodone excludes oxycodone and 4 other derivatives, correct? We're just looking at 5 hydrocodone here, correct?</p> <p>6 MS. MAINIGI: Objection; scope.</p> <p>7 A. I don't know the statement just because 8 I'm not familiar enough -- I'm not a pharmacist, 9 but --</p> <p>10 Q. Fair enough. Fair enough. I'll strike 11 it.</p> <p>12 It's referencing hydrocodone per month, 13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. "Respondents distributed 16 hydrocodone to pharmacies engaged in the diversion 17 of controlled substances as reflected in the chart 18 below. Respondent knew or should have known that 19 the pharmacies were diverting hydrocodone into 20 other than legitimate medical, scientific, and 21 industrial channels."</p> <p>22 And Cardinal denies that, correct?</p> <p>23 A. That is the allegation that was made.</p> <p>24 Q. And Cardinal denies that still to today,</p>	<p style="text-align: right;">Page 281</p> <p>1 Florida is less than 4,800 -- received over 2 155,000 per month for at least a four-month time 3 frame.</p> <p>4 Do you see that?</p> <p>5 A. I see that, and it's actually 8,400 is 6 the average, not 4,800.</p> <p>7 Q. Excuse me. 8,400. I'm a little 8 dyslexic. I apologize.</p> <p>9 DRM Enterprise, Inc., received nearly 10 just shy of a million dosages over 22 months, an 11 average of over 42,000 per month from a period of 12 January of '06 to October of '07.</p> <p>13 Do you see that?</p> <p>14 A. I see that information.</p> <p>15 Q. Jen-Mar Pharmacy Services, Inc., over an 16 11-month period, for the first three months 17 received an average of 2,700 pills. In the last 18 eight months, 43,000 pills.</p> <p>19 Does that seem suspicious, a jump like 20 that, an increase in -- what is that? -- about 15 21 times from one month to the next?</p> <p>22 MS. MAINIGI: Objection; form.</p> <p>23 Objection; scope.</p> <p>24 A. Not necessarily. I don't know the</p>

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<p>1 circumstances surrounding the increase in 2 purchases.</p> <p>3 Q. National Pharmacy, over a 9-month period 4 received 70,000 plus pills of hydrocodone. And, 5 again, all in the Florida area, correct?</p> <p>6 A. Out of the Lakeland distribution center. 7 So generally the Florida and surrounding area I 8 believe is what they service.</p> <p>9 Q. O-R-G, Inc., 1.2 million over a 10 five-month period, 242,000 pills plus per month 11 for a five-month time frame.</p> <p>12 Does that cause you any concerns sitting 13 here today?</p> <p>14 MS. MAINIGI: Objection; form. 15 Objection; scope.</p> <p>16 A. No, because I don't know the totality of 17 the circumstances related to those distributions.</p> <p>18 Q. And what documents would you want to see 19 to make that determination?</p> <p>20 MS. MAINIGI: Objection; scope.</p> <p>21 A. The Know Your Customer questionnaire, as 22 well as any related documentation obtained as part 23 of the due diligence.</p> <p>24 Q. So there should be due diligence related</p>	<p>1 not; is that fair?</p> <p>2 MS. MAINIGI: Objection to form.</p> <p>3 Objection; scope.</p> <p>4 A. We want to understand the totality of 5 the circumstances, yes.</p> <p>6 Q. United Prescription Services, Inc., over 7 a four-month period, 287,000 hydrocodone pills 8 dumped into one pharmacy, correct?</p> <p>9 A. 287,025 pills per month average were 10 shipped to that pharmacy.</p> <p>11 Q. Satellite Drug and Pharmacy, the first 12 four months of a 19-month time frame, 375 pills on 13 average. The next 15 months, 69,500 pills on 14 average per month into that pharmacy. That's not 15 normal, is it, that type of increase?</p> <p>16 MS. MAINIGI: Objection to form. 17 Objection to scope.</p> <p>18 A. Not necessarily. Without the totality 19 of circumstances, I cannot say.</p> <p>20 Q. And if you turn to the next page. Do 21 you see paragraph D there?</p> <p>22 A. Yes.</p> <p>23 Q. And who is Eric Brantley; do you know?</p> <p>24 A. The manager of quality and regulatory</p>
<p>1 to these transactions, right?</p> <p>2 A. There should be -- the Know Your 3 Customer process should be followed if thresholds 4 were increased.</p> <p>5 Q. We should see documentation or 6 explanation why, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. What else would you want to see? 9 Would you want to see any site visits?</p> <p>10 MS. MAINIGI: Objection; form. 11 Objection; scope.</p> <p>12 A. If site visits were warranted by the 13 information in the Know Your Customer and other 14 information we gathered, yes.</p> <p>15 Q. If they're there, you'd want to see 16 them, right --</p> <p>17 MS. MAINIGI: Objection; form.</p> <p>18 Q. -- if they're available?</p> <p>19 MS. MAINIGI: Objection; scope.</p> <p>20 A. Yeah.</p> <p>21 Q. Because part of the process is you want 22 to collect as much information as you can to make 23 the right decision when you're dealing with these 24 controlled substances and whether to ship them or</p>	<p>1 affairs.</p> <p>2 Q. So was he the guy that manages all of 3 quality and regulatory affairs for Cardinal during 4 this time?</p> <p>5 A. No. He's a manager within our quality 6 and regulatory affairs department.</p> <p>7 Q. So what does he manage, what area?</p> <p>8 A. I believe he was originally brought on 9 as part of the Internet pharmacy initiative after 10 we had the meeting with the DEA, and -- I'm not 11 positive, so I can't say for sure his -- his 12 obligations expanded over time.</p> <p>13 Q. Are you aware that in September of 2006, 14 he sent an e-mail to the DEA saying that Cardinal 15 was discontinuing its sales to a pharmacy referred 16 to as RKR, and they didn't discontinue their 17 sales?</p> <p>18 MS. MAINIGI: Objection; form. 19 Objection; scope.</p> <p>20 A. I'm not aware of that e-mail, no.</p> <p>21 Q. And that they continued to provide that 22 pharmacy with over 393,000 hydrocodone products?</p> <p>23 MS. MAINIGI: Is that a question?</p> <p>24 MR. FULLER: Yes.</p>

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<p>1 MS. MAINIGI: Objection; form.</p> <p>2 Objection; scope.</p> <p>3 A. That is an allegation that's made.</p> <p>4 Q. And I think you've testified</p> <p>5 consistently that Cardinal would not ship an order</p> <p>6 that it knew -- or that should have known it would</p> <p>7 be diverted, correct --</p> <p>8 MS. MAINIGI: Objection to form.</p> <p>9 Q. -- or had the potential for being</p> <p>10 diverted?</p> <p>11 MS. MAINIGI: Objection to form.</p> <p>12 A. Cardinal Health does not ship orders</p> <p>13 that it has reported as suspicious.</p> <p>14 Q. And even going back to -- prior to</p> <p>15 2007 -- strike that.</p> <p>16 And if Cardinal had reason to know that</p> <p>17 a pharmacy or drugstore was diverting product, it</p> <p>18 would not ship to that pharmacy, correct?</p> <p>19 A. If Cardinal Health determined that</p> <p>20 customer posed an unreasonable risk of diversion,</p> <p>21 it would not ship to that customer.</p> <p>22 MR. FULLER: This is going to be</p> <p>23 Plaintiff's Exhibit Number 31, and it's Norris 25.</p> <p>24 - - -</p>	<p>1 record, P-31 appears to be a privileged document</p> <p>2 which obviously was inadvertently produced. And</p> <p>3 so we request that pursuant to the protective</p> <p>4 order, that you give us back all copies that you</p> <p>5 have of this document. We'll send you a follow-up</p> <p>6 letter, and we will put it on the privilege log.</p> <p>7 Obviously, we will not let Ms. Norris be</p> <p>8 questioned on it.</p> <p>9 MR. FULLER: Sure. Fair enough. So</p> <p>10 just to put it on the record, the Bates number is</p> <p>11 CAH_MDL_PRIORPROD_DEA07_00968964. And we'll hold</p> <p>12 that issue until it's resolved.</p> <p>13 MS. MAINIGI: Okay. Thank you.</p> <p>14 MR. FULLER: Sure.</p> <p>15 UNIDENTIFIED SPEAKER: Hey guys, are we</p> <p>16 on mute?</p> <p>17 MR. FULLER: Probably.</p> <p>18 UNIDENTIFIED SPEAKER: I think so.</p> <p>19 THE VIDEOGRAPHER: Can you hear us?</p> <p>20 UNIDENTIFIED SPEAKER: Yeah, we can hear</p> <p>21 you.</p> <p>22 MR. FULLER: We were just whispering and</p> <p>23 messing with you guys to see if you were really</p> <p>24 paying attention.</p>
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<p>1 (Cardinal-Norris Exhibit 31 marked.)</p> <p>2 - - -</p> <p>3 MS. MAINIGI: Was this produced by</p> <p>4 Cardinal?</p> <p>5 MR. FULLER: It was.</p> <p>6 MS. MAINIGI: And you don't have a Bates</p> <p>7 number?</p> <p>8 MR. FULLER: Yeah, I apologize. I'm not</p> <p>9 great on -- I'll see if I can get one, though, for</p> <p>10 the record.</p> <p>11 MS. MAINIGI: You know, let me -- I'd</p> <p>12 like to take a break, please, before we start. I</p> <p>13 just want to check on privilege status.</p> <p>14 THE VIDEOGRAPHER: The time is now 5:18.</p> <p>15 Going off the record.</p> <p>16 (Recess taken.)</p> <p>17 THE VIDEOGRAPHER: Okay. The time is</p> <p>18 now 5:24. Back on the record.</p> <p>19 MS. MAINIGI: Counsel, what you just</p> <p>20 marked as P-31 --</p> <p>21 MR. FULLER: I have the Bates number, if</p> <p>22 it helps.</p> <p>23 MS. MAINIGI: Oh, you do? Okay. I</p> <p>24 think we found it, but just for the purpose of the</p>	<p>1 - - -</p> <p>2 (Cardinal-Norris Exhibit 32 marked.)</p> <p>3 - - -</p> <p>4 BY MR. FULLER:</p> <p>5 Q. All right. The next document you're</p> <p>6 being provided is Norris 74, I think. Do you have</p> <p>7 it?</p> <p>8 A. I don't see that number on here.</p> <p>9 Q. No. It was a last minute add, but for</p> <p>10 the record, DEA07_01198345.</p> <p>11 Have you seen this document before?</p> <p>12 A. I have.</p> <p>13 Q. Okay. And did you review it in your</p> <p>14 preparation for the deposition today?</p> <p>15 A. I did.</p> <p>16 Q. And it appears to be a document or an</p> <p>17 e-mail from Steve -- is it Reardon?</p> <p>18 A. Reardon.</p> <p>19 Q. Reardon. And this is a document that's</p> <p>20 maintained in Cardinal's normal business, I'm</p> <p>21 assuming, on its e-mail server, correct?</p> <p>22 A. In accordance with its document</p> <p>23 retention policies, yes.</p> <p>24 Q. Fair enough. And does this document and</p>

<p style="text-align: right;">Page 290</p> <p>1 the attachments thereto appear to be fair and 2 accurate to what the copy you reviewed? 3 A. Yes. 4 Q. Okay. And this is actually a summary of 5 a meeting that HDMA had with DEA, correct? 6 A. That's one part of it, yes. 7 Q. And this is an e-mail from Mr. Reardon 8 to a Mr. Brantley, who we mentioned earlier, 9 Carolyn McPherson, as well as others; is that 10 right? 11 A. It is. 12 Q. And what's the subject? 13 A. The subject is "DEA suspicious order 14 monitoring." 15 Q. And it says, "The HDMA met with DEA 16 officials last Friday, September 7th, to discuss 17 the agency's current policy position on suspicious 18 orders of controlled substances." 19 Do you see that there? 20 A. I see that sentence, yes. 21 Q. And then it talks about a summary. And 22 then it says, "The DEA is setting a new standard 23 with which we must comply." 24 Correct?</p>	<p style="text-align: right;">Page 292</p> <p>1 DEA's expectations and that it is not dictated to 2 us by the agency pursuant to a regulatory action." 3 Correct? 4 A. I see that sentence. 5 Q. And was this prior to the initiation of 6 the regulatory action -- 7 MS. MAINIGI: Objection to form. 8 Q. -- or do you know? 9 A. I believe that the orders to show cause 10 were issued after that. 11 Q. And Mr. Reardon wanted to try to prevent 12 a regulatory action being forced to adopt any sort 13 of policies and procedures on suspicious order 14 monitoring program, correct? 15 A. Mr. Reardon understood the obligations 16 that the DEA was implementing, the new obligations 17 relating to the shipping requirement, and wanted 18 to make sure that we had a program implemented 19 that would comply with those new -- the new 20 guidance. 21 Q. But you said they told you about them 22 way back in 2006, right? 23 A. The initial communication from 24 Rannazzisi was in 2006.</p>
<p style="text-align: right;">Page 291</p> <p>1 A. Correct. 2 Q. And then Mr. Reardon says, "This is all 3 coming about as the result of problems with 4 Internet pharmacies and controlled substance 5 diversion." 6 Isn't that right? 7 A. That is what this sentence says. 8 Q. It then talks about that they 9 recently -- recently they suspended ABC -- which I 10 think, if you and I are on the same page, is 11 AmerisourceBergen, correct? 12 A. Correct. 13 MS. MAINIGI: It's ABC registration. 14 MR. FULLER: Yeah. Thank you. I got 15 it. 16 BY MR. FULLER: 17 Q. "They recently suspended an ABC 18 registration and used the suspension to get them 19 to implement a complex and onerous suspicious 20 order monitoring program that meets the criteria 21 spelled out in the HDMA meeting summary." 22 And then he goes on to say at the 23 bottom, "We need to be proactive and implement a 24 program that we develop that will satisfy the</p>	<p style="text-align: right;">Page 293</p> <p>1 Q. And you still hadn't done anything to 2 implement them now in September of 2007, correct? 3 A. I cannot -- 4 MS. MAINIGI: Objection; form. 5 A. I cannot presently say the corporation 6 doesn't have present knowledge of the actions that 7 we took and the timing of what those actions that 8 we took in that period. 9 Q. So if I understand you correctly, you 10 don't have knowledge as to what actions you, 11 Cardinal, took during that time frame; is that 12 correct? 13 A. I don't know the timing and the actions 14 taken during the time period -- 15 Q. So you can't tell me -- 16 A. -- based on current knowledge. 17 Q. So sitting here after prepping for 18 three, three and a half weeks, whatever it was, 19 you still can't tell us what action Cardinal took 20 from the time it was told it had a shipping 21 requirement for almost a year, as to what they did 22 in relation to that new obligation or what they 23 considered a new obligation? 24 MS. MAINIGI: Objection to form.</p>

<p style="text-align: right;">Page 294</p> <p>1 Misstates her testimony.</p> <p>2 A. The corporation does not have present 3 knowledge about the actions and timing of the 4 actions that were taken during that period 5 presently.</p> <p>6 Q. How doesn't the corporation know what it 7 did?</p> <p>8 MS. MAINIGI: Objection.</p> <p>9 Q. Was it taking any medication in the time 10 that would inhibit its ability to remember?</p> <p>11 MS. MAINIGI: You don't need to answer 12 that question.</p> <p>13 Q. How does the corporation not know what 14 it did for a year?</p> <p>15 MS. MAINIGI: Objection to form.</p> <p>16 A. The corporation does not presently have 17 knowledge of the timing and actions taken during 18 the period presently.</p> <p>19 Q. Does it expect to somehow magically get 20 knowledge at some point in time?</p> <p>21 MS. MAINIGI: Objection to form.</p> <p>22 Outside the scope.</p> <p>23 A. I believe this case and the discovery 24 related to it is continuing.</p>	<p style="text-align: right;">Page 296</p> <p>1 "Key takeaways from the meeting were."</p> <p>2 A. I'm sorry. Repeat your question.</p> <p>3 Q. Sure. In this summary being provided by 4 HDMA to its members, which Cardinal is one of, as 5 you testified earlier, a board member and an 6 executive committee meeting and whatever else, 7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. It indicates the DEA is still of the 10 position that the registrants have a shipping 11 requirement to either hold shipment or do due 12 diligence before the order gets shipped if it's a 13 suspicious order, correct?</p> <p>14 A. I'm sorry. Can you repeat the question 15 one more time?</p> <p>16 Q. Sure. Let's just keep going.</p> <p>17 They say, "Simply complying with the 18 suspicious orders, regulatory requirement, does 19 not mean in the agency's view that the registrant 20 is maintaining effective program to detect and 21 prevent diversion."</p> <p>22 Do you see that?</p> <p>23 A. I do.</p> <p>24 Q. Cardinal knew that as far back as the</p>
<p style="text-align: right;">Page 295</p> <p>1 Q. So you think the corporation may 2 discover what it did ten or eleven years ago at 3 some future point in time? Is that your 4 testimony?</p> <p>5 MS. MAINIGI: Objection to form.</p> <p>6 A. The corporation cannot presently say 7 that -- speak regarding what it was doing in the 8 timing during that period.</p> <p>9 Q. When can it speak to when it first took 10 action; do you know?</p> <p>11 MS. MAINIGI: Objection to form.</p> <p>12 A. No.</p> <p>13 Q. So sitting here today, the corporation 14 can't answer when it first took action related to 15 the Rannazzisi letter of 2006, correct?</p> <p>16 A. I cannot say right now.</p> <p>17 Q. Turn to the next page, please. Do you 18 see "Key Takeaways"?</p> <p>19 A. Yes.</p> <p>20 Q. And, there again, in this summary from 21 HDMA being provided to its members is again the 22 DEA's position on suspicious orders and that they 23 have a stop shipment or a due diligence 24 requirement, correct? I'm sorry. It's under the</p>	<p style="text-align: right;">Page 297</p> <p>1 first Rannazzisi letter in I believe it was 2 September of '06, correct?</p> <p>3 MS. MAINIGI: Objection to form.</p> <p>4 A. That is the information provided in the 5 initial Rannazzisi letter.</p> <p>6 Q. Okay. And then also the DEA goes on and 7 indicates to the HDMA that they do not have the 8 resources to inspect every pharmacy; therefore, it 9 is important that the distributor know their 10 customers, correct?</p> <p>11 A. Correct.</p> <p>12 Q. You would agree with me that that is a 13 good idea on behalf of Cardinal to know who it's 14 distributing controlled substances to, correct?</p> <p>15 MS. MAINIGI: Objection; scope.</p> <p>16 Objection; form.</p> <p>17 A. The Knowing Your Customer is a component 18 of our anti-diversion program.</p> <p>19 Q. And as you testified to earlier, even 20 prior to that program going into place, you still 21 would take steps to know the customer; is that 22 fair?</p> <p>23 A. We've always had the anti-diversion 24 program, the suspicious order monitoring program.</p>

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<p>1 But, yes, but Know Your Customer has been a part 2 of that all along, yes.</p> <p>3 Q. And I'm still taken aback.</p> <p>4 Based on when Cardinal became informed 5 of this shipping requirement by the DEA, sitting 6 here today, you can't tell us when they took any 7 action in that regard, correct? Actually, let's 8 backstep it.</p> <p>9 The policies and procedures that were 10 entered into in the latter part of '08 -- we 11 looked at some of them earlier, right, December of 12 '08?</p> <p>13 A. Mm-hmm.</p> <p>14 Q. Do you remember that?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Some of those, I believe -- and 17 correct me if I'm wrong -- include a shipping 18 requirement; do they not?</p> <p>19 A. The policy that we looked at mentions 20 held orders.</p> <p>21 Q. So we know at least two years after 22 Cardinal was aware of the shipping requirement, 23 they did something, right?</p> <p>24 MS. MAINIGI: Objection; form.</p>	<p>1 A. I don't recall specifically.</p> <p>2 Q. So sitting here today, you don't know if 3 there was a shipping requirement in 2007, correct?</p> <p>4 MS. MAINIGI: Objection to form.</p> <p>5 Misstates her testimony.</p> <p>6 A. My understanding is our suspicious order 7 monitoring system, including the shipping 8 requirement, was implemented in late 2007.</p> <p>9 Q. Well, just a minute ago you couldn't 10 tell me when y'all first did something in relation 11 to the new shipping requirement.</p> <p>12 Wasn't that your testimony?</p> <p>13 MS. MAINIGI: Objection to form.</p> <p>14 Misstates her testimony.</p> <p>15 A. I don't believe so. I believe we were 16 talking about the period between 2006 and 2000 -- 17 the receipt of the first letter and when we did 18 implement. We never established when we 19 implemented.</p> <p>20 Q. So you believe that you implemented a 21 policy and procedure for the shipping requirement 22 in late 2007?</p> <p>23 MS. MAINIGI: Objection to form.</p> <p>24 A. We initiated our suspicious order</p>
<p style="text-align: center;">Page 299</p> <p>1 Q. September of '06 to December of '08. I 2 was giving you the benefit of the doubt. It's 3 actually 26 months, a little over two years, 4 correct?</p> <p>5 A. We have a policy dated 2008 that 6 mentions held orders. It does not -- it does not 7 make a statement about prior time period.</p> <p>8 Q. And sitting here today, can you tell the 9 jury if Cardinal did anything prior to that policy 10 related to what Cardinal considers new obligation 11 as far as shipping requirement?</p> <p>12 MS. MAINIGI: Objection to form.</p> <p>13 A. Yes. Our anti-diversion program was 14 implemented -- anti-diversion system, suspicious 15 order monitoring system, was implemented in late 16 2007.</p> <p>17 Q. And did it include a shipping 18 requirement?</p> <p>19 A. Yes.</p> <p>20 Q. And where is the policy that 21 specifically provides the shipping requirement?</p> <p>22 A. I don't have a copy of that particular 23 policy.</p> <p>24 Q. Did you review it?</p>	<p style="text-align: center;">Page 301</p> <p>1 monitoring system in late 2007. I cannot speak to 2 policies and procedures.</p> <p>3 Q. Okay. Fair enough. Who is Dendright?</p> <p>4 A. Dendright?</p> <p>5 Q. Yes, ma'am.</p> <p>6 A. My understanding is that Dendright is a 7 third party we engaged to perform, I believe, site 8 visits.</p> <p>9 - - -</p> <p>10 (Cardinal-Norris Exhibit 33 marked.)</p> <p>11 - - -</p> <p>12 MR. FULLER: I apologize. This is 13 another e-mail that was produced. It's Norris 43. 14 It will be Plaintiff's 33. And I'll get the Bates 15 number to supplement it, Counsel.</p> <p>16 MS. MAINIGI: Okay.</p> <p>17 BY MR. FULLER:</p> <p>18 Q. Ms. Norris, do you know if you've seen 19 this document before?</p> <p>20 A. I have not.</p> <p>21 Q. And the subject line of this e-mail 22 chain is "Lois & Clark 0102."</p> <p>23 Do you see that?</p> <p>24 A. I see that subject line, yes.</p>

<p style="text-align: right;">Page 302</p> <p>1 Q. I guess you could say "Lois & Clark 2 #0102."</p> <p>3 A. I'm assuming that's maybe their customer 4 number or something like that.</p> <p>5 Q. Sure. If you go back to the very 6 beginning of it, there's an e-mail from a Kelly 7 Segee --</p> <p>8 A. Yes.</p> <p>9 Q. -- related to increases in thresholds. 10 Do you see those there?</p> <p>11 A. I see the numbers she lays out.</p> <p>12 Q. And if you go to the first page -- and 13 you can read the rest of it if you'd like.</p> <p>14 A. Yes. Please give me a minute.</p> <p>15 Q. Sure.</p> <p>16 A. Okay.</p> <p>17 Q. So, Ms. Norris, if you look, Michael 18 Mone sends an e-mail on January 25th. Just the 19 second e-mail in the chain.</p> <p>20 A. Yes.</p> <p>21 Q. It says the Dendright report. Is that 22 the company you were referring to earlier that 23 would provide -- what did you say? Site visits?</p> <p>24 A. I believe that's a third party we</p>	<p style="text-align: right;">Page 304</p> <p>1 MS. MAINIGI: Objection; form. 2 Misstates her testimony.</p> <p>3 Q. Actually, let me ask it differently. It 4 didn't have a specific system in place to report 5 suspicious orders?</p> <p>6 MS. MAINIGI: Objection to form.</p> <p>7 A. It had the -- as part of the program, it 8 had the system in place to calculate the 9 algorithms to make the suspicious -- to make the 10 ingredient limit reports as required.</p> <p>11 Q. Okay. Right. No, I got that.</p> <p>12 But, again, did Cardinal Health have a 13 system for detecting all suspicious orders prior 14 to January 2007?</p> <p>15 MS. MAINIGI: Objection to form.</p> <p>16 A. I believe I stated that we had a program 17 in place to make the reports that we were required 18 to make to the DEA on the ingredient limit report.</p> <p>19 MS. MAINIGI: Mike, I'd like to go off 20 the record for just a couple of minutes.</p> <p>21 MR. FULLER: Sure.</p> <p>22 MS. MAINIGI: I think we're about ten 23 minutes out.</p> <p>24 THE VIDEOGRAPHER: The time is now 5:48.</p>
<p style="text-align: right;">Page 303</p> <p>1 engaged to perform site visits, yes.</p> <p>2 Q. For what time period was Dendright 3 providing site visits?</p> <p>4 A. I don't recall specifically.</p> <p>5 Q. Are they still providing site visits?</p> <p>6 A. We have a third party providing certain 7 site visits. I can't remember if it's Dendright.</p> <p>8 Q. But at least apparently in 2008, it was 9 Dendright?</p> <p>10 A. They performed this site visit, it 11 appears, yes.</p> <p>12 Q. And when you say "site visit," is that 13 like the investigative visit to a particular 14 pharmacy?</p> <p>15 A. Yes. At the request of QRA, they would 16 go out to perform a site visit.</p> <p>17 Q. So prior to 2007, did Cardinal have a 18 system for detecting all suspicious orders?</p> <p>19 A. Prior to 2007, Cardinal Health had a 20 suspicious order monitoring program that produced 21 the reports as required by the DEA, the ingredient 22 limit report, the excessive order report.</p> <p>23 Q. So it did not have a specific suspicious 24 order program, correct?</p>	<p style="text-align: right;">Page 305</p> <p>1 Going off the record.</p> <p>2 (Recess taken.)</p> <p>3 THE VIDEOGRAPHER: The time is now 5:58.</p> <p>4 Back on the record.</p> <p>5 MS. MAINIGI: I think there was some 6 confusion, Mr. Fuller, before the break, so 7 Ms. Norris is just going to clarify so that it's 8 clear.</p> <p>9 BY MR. FULLER:</p> <p>10 Q. Okay. Ms. Norris, what do you need to 11 clarify?</p> <p>12 A. I think we're still talking past each 13 other. On the suspicious order reporting 14 requirement, prior to 2007 Cardinal Health 15 complied with its suspicious order reporting 16 requirement in the statute.</p> <p>17 In doing -- but they did that by 18 submitting the ingredient limit reports and the 19 excessive order reports. That constituted our 20 suspicious order reporting.</p> <p>21 MS. MAINIGI: And do you want to draw 22 his attention to this document?</p> <p>23 A. And as further set forth in Cardinal 24 Exhibit 20, Norris Exhibit 20, that we talked</p>

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1 about earlier.	1 this topic, you mentioned two reports when you
2 Q. Okay. And did you talk about this	2 talked about the prior to '07 suspicious order
3 change in your testimony with your counsel on the	3 reporting, the ingredient --
4 break?	4 A. The ingredient limit report.
5 A. It's not a change in my testimony. It's	5 Q. And then another one.
6 a clarification. And we did talk about the need	6 A. Excessive order reports.
7 to make the clarification, yes.	7 Q. Where would I find those reports?
8 Q. And based on the conversation you had,	8 A. My understanding is that some of them
9 you've now come back in and clarified or changed	9 have been produced.
10 or altered, whatever you want to label it, your	10 Q. And where does Cardinal keep those
11 testimony, correct?	11 reports?
12 MS. MAINIGI: Objection to form.	12 MS. MAINIGI: Objection; outside the
13 Misstates her testimony.	13 scope.
14 A. I'm clarifying the position that I've	14 Q. Are they electronic reports? I think
15 been testifying to throughout today.	15 you testified earlier they were.
16 Q. Okay. So I'll ask the question again.	16 MS. MAINIGI: Objection to form.
17 Did Cardinal have in place a system for reporting	17 A. No, I didn't testify that those were
18 all suspicious orders prior to 2007?	18 electronic. I -- the reports I have seen appear
19 A. Yes.	19 to be facsimiles, faxes, that were sent back and
20 - - -	20 forth. So I guess maybe that's electronic.
21 (Cardinal-Norris Exhibit 34 marked.)	21 Q. Are they handwritten?
22 - - -	22 A. It's a form that's filled out with
23 Q. Now, as Norris 19, I'm going to pass you	23 handwriting on it, yes.
24 what has been marked as Plaintiff's 34. And I'm	24 MS. MAINIGI: I believe Ms. Norris
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1 willing to bet you've looked at this before today.	1 referred you to Exhibit 20, which is a policy that
2 A. Yes.	2 contains reference to them.
3 Q. Does that appear to be a true and	3 MR. FULLER: Thank you.
4 accurate copy of the Memorandum of Agreement	4 BY MR. FULLER:
5 between the United States Department of Justice,	5 Q. Okay. So I believe -- and I may be
6 the DEA, and Cardinal Health?	6 wrong, but I believe earlier you testified that
7 A. Yes. It's not the fully executed copy,	7 those were electronic reports.
8 but ...	8 Are you now saying they are not
9 Q. And if you turn to page 2 of that	9 electronic reports?
10 document.	10 MS. MAINIGI: Objection to form.
11 A. Yes.	11 A. The ingredient limit report is prepared
12 Q. Do you see there in the first paragraph,	12 electronically. The excessive order reports are
13 "Cardinal admits that its due diligence efforts	13 filled out when one comes up and sent to the DEA.
14 for some pharmacy customers and its compliance	14 Q. So that's a system that's done manually,
15 with the 2008 MOA in certain respects were	15 correct?
16 inadequate."	16 A. Yes. These are the orders that are
17 Correct?	17 identified in the distribution center as the folks
18 A. I see that language, yes.	18 are picking them.
19 Q. Does Cardinal agree with that?	19 Q. And based on the -- now I'm switching
20 A. "Cardinal agrees that its due diligence	20 back gears to Exhibit 34.
21 efforts for some pharmacy customers in certain	21 A. Okay.
22 respects were inadequate and thus its compliance	22 Q. All right. So based on this Memorandum
23 with the 2008 MOA."	23 of Understanding entered in 2012, there were fines
24 Q. Oh, and then we -- before we finish with	24 of combined, I guess, \$44 million paid by Cardinal

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<p>1 for its breaches of the Controlled Substances Act, 2 correct?</p> <p>3 A. There was a settlement of 44 -- a total 4 of \$44 million. And in connection -- in the 5 settlement agreement, there was an admission, a 6 limited admission, as to certain actions by 7 Cardinal.</p> <p>8 Q. Well, it says the "Covered Conduct: The 9 conduct in the February 2nd, 2012 order to show 10 cause, the failure to maintain effective controls 11 against diversion; C, the failure to detect and 12 report suspicious orders and the failure to adhere 13 to the 2008 MOA."</p> <p>14 Is that what it says?</p> <p>15 A. That's the definition of covered 16 conduct.</p> <p>17 Q. Okay. Now, let me show you -- and I 18 know we're getting close on time.</p> <p>19 A. Which is what the settlement relates to. 20 - - -</p> <p>21 (Cardinal-Norris Exhibit 35 marked.) 22 - - -</p> <p>23 Q. All right. And that's going to be 24 Exhibit 35.</p>	<p>1 actually adopting that as a policy, procedure, or 2 in any other form or format, correct?</p> <p>3 MS. MAINIGI: Objection; misstates her 4 testimony. Objection; time period.</p> <p>5 A. That is the process that we were 6 following in order to comply with our obligations 7 under the suspicious reporting regulation as we 8 talked about earlier pursuant to this policy.</p> <p>9 Q. Sure. You explained that -- my question 10 is, did Cardinal ever formally adopt it? I think 11 we saw Mr. Reardon sign off on a policy and 12 procedure previously approving it and accepting 13 it.</p> <p>14 MS. MAINIGI: I'll let her answer the 15 question.</p> <p>16 A. I don't specifically recall.</p> <p>17 Q. Okay.</p> <p>18 MS. MAINIGI: We are at seven hours, as 19 I understand it. The deposition is now over. 20 We will designate the transcript highly confidential, 21 and we will read and sign.</p> <p>22 MR. FULLER: I'd like to finish with the 23 last exhibit that's already been entered.</p> <p>24 MS. MAINIGI: I'm sorry. It's seven</p>
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<p>1 Now, ma'am, before we jump in real 2 briefly to those threshold changes, you referenced 3 a 1998 report to the U.S. Attorney General. At 4 what point in time did Cardinal adopt that 5 document as its policies or procedures?</p> <p>6 A. 1998 when we received notice of it, I 7 believe.</p> <p>8 Q. So Cardinal officially adopted it into 9 its policies and procedures in 1998 --</p> <p>10 MS. MAINIGI: Objection; time period.</p> <p>11 Q. -- correct?</p> <p>12 A. I don't know the answer about policies 13 and procedures. That was the guidance we received 14 in 1998, which we followed.</p> <p>15 Q. But this was a report provided to the 16 U.S. Attorney General. You mentioned that 17 earlier, correct?</p> <p>18 A. Correct, by the DEA.</p> <p>19 Q. Not provided to the wholesale 20 distributors?</p> <p>21 A. It wasn't a report directly to the 22 wholesale distributors. It was to the Attorney 23 General.</p> <p>24 Q. And you have no knowledge of Cardinal</p>	<p>1 hours. We're done.</p> <p>2 MR. FULLER: Okay. Well, we believe 3 that will be good cause shown.</p> <p>4 MS. MAINIGI: Well, we don't agree 5 pursuant to the agreement that we have. Thank 6 you.</p> <p>7 MR. FULLER: Thank you.</p> <p>8 We can go off the record.</p> <p>9 THE VIDEOGRAPHER: The time is now 6:09.</p> <p>10 This concludes the deposition. Going off the 11 record.</p> <p>12 (Signature not waived.) 13 - - -</p> <p>14 Thereupon, at 6:09 p.m., on Tuesday, July 7, 15 2018, the deposition was concluded.</p> <p>16 - - -</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

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1 CERTIFICATE	1 DEPOSITION ERRATA SHEET
2 STATE OF OHIO : SS:	2 Deposition of: Jennifer R. Norris
3 COUNTY OF FRANKLIN : 4	3 Matter of: National Prescription Opiate Litigation
5 I, JENNIFER R. NORRIS, do hereby certify that 6 I have read the foregoing transcript of my 7 cross-examination given on July 7, 2018; that together 8 with the correction page attached hereto noting changes 9 in form or substance, if any, it is true and correct.	4 Page Line Correction or Change and Reason
10	5 _____
11	6 _____
12 I do hereby certify that the foregoing 13 transcript of the cross-examination of JENNIFER R. 14 NORRIS was submitted to the witness for reading and 15 signing; that after she had stated to the undersigned 16 Notary Public that she had read and examined her 17 cross-examination, she signed the same in my presence on 18 the _____ day of _____, 2018.	7 _____
19	8 _____
20 NOTARY PUBLIC - STATE OF OHIO	9 _____
21	10 _____
22 My Commission Expires: 23 _____, _____. 24	11 _____
25	12 _____
26	13 _____
27	14 _____
28	15 _____
29	16 _____
30	17 _____
31	18 _____
32	19 _____
33	20 _____
34	21 _____
35	22 _____
36	23 _____
37	24 Date _____ Signature _____
Page 315	
1 CERTIFICATE	
2 STATE OF OHIO : SS:	
3 COUNTY OF FRANKLIN : 4 I, Carol A. Kirk, a Registered Merit Reporter and Notary Public in and for the State of Ohio, duly 5 commissioned and qualified, do hereby certify that the within-named JENNIFER R. NORRIS was by me first duly 6 sworn to testify to the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the 7 deposition then given by her was by me reduced to stenotype in the presence of said witness; that the 8 foregoing is a true and correct transcript of the deposition so given by her; that the deposition was 9 taken at the time and place in the caption specified and was completed without adjournment; and that I am in no 10 way related to or employed by any attorney or party hereto or financially interested in the action; and I am 11 not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 12 28(D).	
13 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Columbus, Ohio on 14 this 10th day of July 2018.	
15	
16	
17	
18	
19 CAROL A. KIRK, RMR NOTARY PUBLIC - STATE OF OHIO	
20 My Commission Expires: April 9, 2022.	
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